

Ethnography of Land Deals

'Dominion has the biggest shamba now':

Local Perceptions of the Dominion Farms Project in Western Kenya



Master Thesis

Anna von Sury

Master of Arts in Social Anthropology

Institute of Social Anthropology

University of Berne

Supervised by Prof. Dr. Tobias Haller

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anna.vonsury@students.unibe.ch

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As things are here, life outstrips our vocabulary.

John Berger, *Once in Europa*



Abstract

Acquisitions of large amounts of land in sub-Saharan Africa are on the rise since the food, finance, and fuel crises reached its peaked in 2009; yet not much research has dealt with looking at such land deals from the inside out. This thesis addresses a land acquisition by US-based Dominion Farms Ltd. in western Kenya, focusing on how the implementation and impacts of the land deal are perceived from heterogeneous local perspectives. Based on a three-month research, empirical findings suggest that the land deal has deteriorated resilience capacity of local livelihoods by depriving local people of a vital common pool resource, which enabled access to subsistence and to monetary income. However, findings also reveal that responses and strategies to cope with the impacts triggered by the land deal do not leave local people entirely powerless vis-à-vis the investor.

Keywords: large-scale land acquisition; Kenya; common pool resource; local perceptions; local impacts; resilience.

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Abbreviations

CBO	Community Based Organisation
CDE	Centre for Development and Environment
CETRAD	Centre for Training and Integrated Research in ASAL Development
CPR	Common Pool Resources
EU	European Union
FAO	Food and Agriculture Organisation
FDI	Foreign Direct Investment
ILC	International Land Coalition
IPCC	Intergovernmental Panel on Climate Change
KANU	Kenya African National Union
KSh	Kenya Shillings
LBDA	Lake Basin Development Authority
LSLA	Large-Scale Land Acquisition
MoU	Memorandum of Understanding
NGO	Non-governmental Organisation
UN	United Nations

1 Introduction

The last few years have seen the development of a heated debate in the media and academia on 'land grabbing', a term describing the acquisition of large amounts of land, often in countries of the global South. This phenomenon has drawn growing attention of journalists, non-governmental organisations (NGOs), academics, as well as of multilateral organisations such as the World Bank and the Food and Agriculture Organisation (FAO), who all felt the need to position themselves in the debate. But what is *land*?

Derek Hall (2013) asks this seemingly unnecessary question, and identifies some fundamental differences in land as opposed to other resources: First, land is fixed, it does not move. Second, land is heterogeneous in many ways, meaning that one acre is not necessarily equal to another acre (cf. Edelman 2013). Third, some kind of control is indispensable in order to access land or associated resources. Finally, land is bound up with a range of social processes and emotions, and cannot simply be reduced to the agrarian question, as James Ferguson notes (Ferguson 2013). Struggles over land and the contemporary wave of large-scale land acquisitions (LSLA) relate to these characteristics of land. Whereas the debate on LSLA was initially held around the dichotomy of 'development' versus 'structural robbery', discussions have increasingly become more differentiated and comprehensive, and have embedded the debate in a larger political economy of resource control, addressing questions of labour and property rights (cf. Borras et al. 2012; Baird 2011; Li 2011; Peters 2013a; Alden Wily 2012, to name a few).

Yet a knowledge gap still exists concerning perceptions of heterogeneous groups of affected people on land deals, which the interdisciplinary research project *Ethnography of Land Deals* aims to fill with comparative in-depth research in India, Sierra Leone and Kenya. This thesis builds on a three-month research in western Kenya, where an investor from the United States leased 6,900 of the Yala Swamp in order to grow rice based on the discourse to ensure food security in the region. The focus of this thesis is on how affected local people perceived the implementation process and subsequent impacts on their livelihoods, and how they cope with the current situation of resource loss. The title of this thesis – 'Dominion has the biggest *shamba* now' – is a quotation from a local man and refers to the amount of land acquired by the investor, the Kiswahili term *shamba* translated as a subsistence plot for crop cultivation. Of course, this does

not portray the complexity of the case, however, it gives a first impression of how the land deal is locally perceived.

This thesis is divided into three parts. Part one (chapter 2 and 3) discusses theoretical approaches to the topic of LSLA that go beyond the dichotomy of development versus structural robbery, and includes notions such as development discourses, labour, ownership and property rights. Furthermore, the research project *Ethnography of Land Deals* and methods applied in the field are discussed. Part two (chapter 4 and 5) addresses the research context on both the national and local level, historically and socio-politically, and introduces the investor. I describe how throughout Kenya's history, land has been a central issue of conflict, and how the swamp under lease built a major livelihood basis for surrounding communities. Building on these insights, part three consists of the empirical findings and elucidates perspectives of affected people. Chapter 6 illustrates local perceptions of the investor's arrival in the region, before chapter 7 addresses how the land deal itself, as well as economic and ecological impacts of the land deal are perceived. Finally, chapter 8 discusses strategies applied to cope with the transformed (institutional) setting. Throughout the thesis, I argue that the acquisition of the Yala Swamp by a foreign investor does not only restrict access to a vital common pool resource of local communities, but also deteriorates resilience of local livelihoods, for which the swamp was essential, and therefore constitutes what has been referred to as *resilience grabbing*.

2 Theoretical Approaches

Since the rapid increase of land acquisitions by foreign investors over the last few years, the growing scientific literature ponders if these acquisitions are to be identified as a new opportunity for alleviating the so-called Third World from poverty and hunger, or rather as a deleterious effect of neoliberal globalisation leading to neo-colonialist practices, not exclusively, but especially in Africa. In order to comprehend land acquisitions as a result of a complex interaction between historical, political, economic, and social processes, this chapter provides a discussion of roots, triggers and features of a phenomenon known to a wider audience as *land grabbing*. Approaching the phenomenon of land acquisitions from different perspectives, which lay their focus on various aspects, enables a differentiated view on a sensitive and polarised debate. First, I propose to take a step back and have a look at the terminology used in the debate, in order to derive an understanding of what the term *land grabbing* depicts.

2.1. Large-Scale Land Acquisitions: The New Scramble for Land?

The phenomenon of land acquisitions has been analysed by various authors with different backgrounds. The terminology used to describe the phenomenon tends to reflect the author's position in the debate. Authors representing a neoliberal perspective, such as the World Bank, use the term *large-scale land investment* or subsume these investments under *Foreign Direct Investments* (FDI). From this point of view, as the use of the term *investment* suggests, capital investment is considered necessary for improving smallholder agricultural productivity (Deininger and Byerlee 2011). On the other side of the debate, authors sceptical of the phenomenon speak of *land grabbing*, critically questioning if the *grabbing* of large amounts of land contributes to 'development', less poverty and hunger, or rather increases the vulnerability of rural livelihoods and even produce poverty (De Schutter 2011; Anseeuw et al. 2012a; Borras and Franco 2010; Li 2011). Therefore, *land grabbing* describes a phenomenon under which the affected local people ultimately bear disproportionate costs while their livelihoods are put in jeopardy.¹ The term *large-scale land acquisition* (LSLA) is

¹ Building on the central assumption that *land grabbing* violates various local rights, the Tirana Declaration of 2011, issued by members of the International Land Coalition (ILC), which promotes secure and equitable access to land, understands *land grabbing* as acquisitions or concessions that share at least one of the following five characteristics: (i) violation of human rights, particularly the equal rights of

considered more neutral and used by the Food and Agriculture Organisation (FAO) of the United Nations (UN), the Centre for Development and Environment (CDE) at the University of Berne, and others (Anseeuw et al. 2012b). In this thesis I adopt the term LSLA, as I comprehend it as a term that includes the investing actors as well as national and local actors enabling and facilitating these *acquisitions*. This allows for a contemplation of the phenomenon from a versatile perspective.

The multidimensional and complex nature of LSLA poses some difficulties when attempting to capture the phenomenon in a single definition. Borras et al. have developed a useful work-in-progress definition, which considers different aspects of the contemporary land rush:

"The capturing of control of relatively vast tracts of land and other natural resources through a variety of mechanisms and forms that involve large-scale capital that often shifts resource use orientation into extractive character, whether for international or domestic purposes, as capital's response to the convergence of food, energy and financial crises, climate change mitigation imperatives, and demands for resources from newer hubs of global capital" (2012: 851).

This preliminary framing of the phenomenon takes into account different interlinked dimensions of the current wave of LSLA. First, it lays its focus on political power relations, that is the power to control land and its associated common pool resources (CPR), such as water, in order to derive benefits from this control. Second, it addresses the levels of capitalisation involved; comparable scales in capital involved do not necessarily lead to the acquisition of comparable amounts of land. Edelman (2013: 498, 485) points out that a focus on the scale of capital involved, rather than merely being obsessed with hectares, enables a consideration of the different quality of land that has been acquired, as well as of the transformation of social relations on the ground.

Further, this definition indicates that the current form of 'control grabbing', as Borras et al. term it (2012: 850), emerged as a response to a global 'crisis narrative'.

women; (ii) not based on Free, Prior and Informed Consent of the affected land-users; (iii) not based on a thorough assessment, or are in disregard of social, economic and environmental impacts, including the way they are gendered; (iv) not based on transparent contracts that specify clear and binding commitments about activities, employment and benefits sharing, and; (v) not based on effective democratic planning, independent oversight and meaningful participation (Anseeuw et al. 2012a: 11).

White et al. (2012: 631) note that land acquisitions are often justified on the basis of 'crisis narratives' that are linked to growing scarcity and impending catastrophe. Against this backdrop, "the underlying assumption is that the solution to such food, energy and climate 'crises' lies in capturing the potentials of so-called 'marginal, empty, and available' lands across the globe" (ibid.).

The mentioned food, finance, and fuel/energy crises, which started in 2005 and reached a peak in 2009, led to a rapid increase of LSLA by foreign investors in Africa, Asia, Latin America, and Eastern Europe (Anseeuw et al. 2012b). However, the current rush for land has its roots much further back. The 'new' trend of land acquisitions historically dates back to the Irish and British enclosures in the Global North, the deprivation of land of native populations in North America, and to European colonisation in Africa (Alden Wily 2012). In the African context, additionally to asserting political sovereignty, European colonisers acquired ownership of vast amounts of land by using the concept of *vacant lands* and through the dispossession of local populations (Cotula 2013: 15). Simultaneously, Africa's role as a supplier of raw material for the West (today increasingly also for emerging economies in the South) was determined – a role that was inscribed into many lower-income countries in the course of their integration into the global capitalist economy during the colonial project (Cotula 2012, 2013). Considering this historical trajectory of dispossession, today's conflicts over land have to be understood in their historical context as the latest phase in a long history of tension and contestation over land and control of land, but also as the continuation of a challenging relationship between small-scale farmers and their attempted integration into the larger economy (Woodhouse 2012: 777; De Schutter 2011: 251; Cotula 2013).

Although a historical continuation of land dispossession exists in many countries of the global South, certain mechanisms enable a differentiation of the contemporary wave of LSLA from earlier land acquisitions. The contemporary wave of LSLA is deemed to be larger in pace and scale than preceding acquisitions of land (Kaag and Zoomers 2014: 50-51). Further, Peluso and Lund (2011: 672) point out to the new mechanisms of land control that justify a new privatisation of land in a political economic context of neoliberalism. Recalling Kaag and Zoomers' (2014: 51f.) remark that today's *hype*² of

² Kaag and Zoomers (2014: 5-8) discern *land grabbing* as a hype in the sense that LSLA have been heralded as a hyped solution for solving the food, finance, and energy crisis, whereby the media helped in creating the hype by telling a simple story of culprits and victims.

LSLA lies at the heart of a capitalist crisis, the following subchapter addresses a myriad of drivers and mechanisms behind "the most recent manifestation of an agrarian crisis around the world" (White et al. 2012: 626).

2.2. Contextualising LSLA: Mechanisms, Targets, Scale and Legal Frameworks

After food prices had been declining for two decades until the beginning of the new century, the food price hike of 2008 reminded the world of its subjection to volatile global food prices (Cotula 2013: 71). Prevailing perceptions of a growing world population, changing diets, and rising levels of consumption led to expectations of increasing food demand and therefore to rising food prices (Anseeuw et al. 2012a: 24, 26). Rising and volatile food prices in turn led to a growing search for a vertical integration of global supply chains in agrifood companies in order to ensure security of food supply, instead of relying on world markets (De Schutter 2011: 251). Aware of the prevailing market uncertainty, sub-Saharan food-importing countries started to invest in the agricultural sector to overcome food-import dependency. But also wealthy countries lacking farmland for their own production (e.g. countries in the Gulf) saw the outsourcing of food production as a solution for minimising insecurities of food supply (Deininger and Byerlee 2011; De Schutter 2011: 251-252.; Anseeuw et al. 2012a: 24-26). By investing directly into farmland, the latter countries saw an opportunity to produce for themselves and decrease dependency on global markets, whereas sub-Saharan countries in need for cash saw these investments as a chance to become self-sufficient again and increase revenues from exports of LSLA (De Schutter 2011: 251).

However, several authors (Borras et al. 2012; Anseeuw et al. 2012a) point out that the contemporary rush for land is not merely about food security. The quest for alternative energy resources by major energy consuming countries in the course of the spike of fuel prices has also led to increasing interest in investing in land. The growing demand for biofuels especially highlights the effect of non-market forces in the current wave of LSLA. The aim to overcome dependency on fossil fuels, also as a means to mitigate human-induced climate change, has progressively led to policies in the western world that create incentives for investing in biofuels and other renewable sources (Cotula 2013: 72).³ At the same time, recipient countries have adjusted policies in order

³ For example, the European Union's (EU) 2020 climate and energy package sets a target to cover 10% of its transport fuels with renewable energy sources, mainly agro-fuels (cf. EC 2009). However,

to attract investments (Cotula 2012: 672). As a result, vast amounts of land have been appropriated for biofuels. Closely related to climate change mitigation strategies is what Fairhead et al. (2012) refer to as *green grabbing*. Here, land is acquired in the name of conservation objectives. For example, carbon markets allow companies and governments producing greenhouse gases to compensate these by investing in projects that sequester carbon (Brockington et al. 2010). Mechanisms, such as the REDD+ programme (Reducing emissions from deforestation and forest degradation) by the UN, lead to the appropriation of ecosystems in the name of environmental protection and sustainability, while simultaneously often depriving local people of their access to these ecosystems (Fairhead et al. 2012).

Finally, land has become increasingly attractive as an object of speculation, particularly within Africa (Anseeuw et al. 2012a: 28). On the one hand, the expected rising demand for food suggests that relative prices for land and thus land values will increase in the longer term, especially in Africa where land is still cheap, promising growing returns (from agriculture) (Cotula 2012: 665). On the other hand, returns on land are only limitedly subject to equity markets, which causes land to be attractive as a hedge against inflation (ibid.). Whereas the food, finance, and fuel crises can be seen as the trigger of the land rush, the mentioned facts that are underlying trends of expected rising prices in the long-term resulted in (farm)land becoming an increasingly attractive investment option (Anseeuw et al. 2012a: 24; Cotula 2012: 665). Therefore, LSLA can be motivated simply by expectations of rising land values as a consequence of rising demand (Anseeuw et al. 2012a: 28).

Further features of public interest in the debate on LSLA are the investing actors, but also where they seek to implement their investments. Media reports discussing LSLA often pay most attention to large deals by the United Arab Emirates or emerging economies such as China, which tends to conceal the role of western countries and local investors in the acquisition of land (Cotula 2013: 70). Companies based in Europe and North America account for much of the land acquisitions taking place in Africa, motivated by the drivers mentioned above (rising demand for energy and consumption goods and capital investments) (ibid.). However, although transnational deals tend to

environmental and social consequences of large-scale plantations for biofuels have led to discussions that no new targets for renewable energy should be set after 2020 (cf. Bourguignon 2015).

dominate media headlines, national processes have to be considered as well (ibid.: 54ff.; 2012: 2). It is not merely foreign investors pushing investments, but also national governments attracting them for various reasons. The complex combinations of foreign and domestic capital of distinct origins are not to be underestimated, as Edelman (2013: 498) points out, as well as a need for laying the focus more on the sellers than on the buyers. Borras and Franco (2010b: 509) emphasise that transactions often involve close partnerships between foreign investors and national governments, whereas the latter play a key role in facilitating land deals. Furthermore, Anseeuw et al. (2012a: 21) underline the role of national and local elites, often acting as brokers or intermediaries between foreign companies and local populations.

The scale of LSLA is both under- and overestimated by different media-based datasets, and therefore has to be treated with caution (Edelman 2013: 494; Cotula 2013: 42). The pace and changing status of LSLA makes it difficult for databases such as the Land Matrix⁴ to keep data up to date (Cotula 2013: 37-41). A consistent picture is, however, that many LSLA are taking place, with Africa appearing to be the main target due to perceptions that large tracts of land can easily be acquired inexpensively (Anseeuw et al. 2012a: 22). In spite of the discourse of marginal or underutilised lands, Cotula (2012: 655) states that investors often target qualitatively high potential land. Factors such as irrigation potential and soil fertility, or infrastructure such as roads and energy provision, to name a few, play a crucial role when investors search for land. Hence, paying attention to the quality and location of acquired land is important, since even acquisitions of small amounts of land can greatly exacerbate pressures (Cotula 2013: 47).

White and colleagues (2012: 630-631) also mention that international legal frameworks promote and facilitate land deals, while simultaneously exacerbating already existent imbalances between investors and recipients. Long-term leasing of land, especially in Africa, where most deals include long-term contracts, tend to deny people of their rights to land for various generations (Alden Wily 2011b: 736). At the same time, long-term contracts depoliticise acts of land alienation, as acquisitions are portrayed as only being leaseholds in this discourse. White et al. (2012: 631) further

⁴ The Land Matrix project seeks to systematically gather and verify information on LSLA. It records transactions that entail a transfer of rights, that cover at least 200 ha, and that have been concluded since the year 2000 (Anseeuw et al. 2012b: vi). <<http://landmatrix.org/>>.

point out that the long-term nature of contracts limits opportunities for changing the terms of a deal over a long period. Furthermore, by allocating large areas of land, investors often extract large amounts of water, although not covered in the deal, affecting land users surrounding the deal (ibid.).⁵

To sum up, the prevailing narrative of increasing food demand, the global demand for bioenergy, and the prediction of higher food prices in the long term all lead to the belief about rising prices of land and therefore that investment in agriculture is a good business opportunity. The intertwined financialisation and privatisation of land, whereby some are able to make profit from this resource while others are excluded from accessing it (White et al. 2012: 627), are related to prevailing discourses of development and the labour question.

2.3. Discourses of Development and the Labour Question

Following the 2007-08 food and finance crisis, institutions representing a neoliberal development discourse, such as the World Bank, noted that the crisis had resulted in "a 'rediscovery' of the agricultural sector by different types of investors and a wave of interest in land acquisitions in developing countries" (Deininger and Byerlee 2011: xxv). The mentioned 'rediscovery' especially targets countries in Sub-Saharan Africa and Latin America, where land is allegedly abundant and "most plentiful" (ibid.: xxviii), with the aim of finally developing seemingly underutilised land by importing capital (De Schutter 2011: 250). This rhetoric reminds of concepts of development that emerged in the imperial crisis of the 1940s and became the legitimation for a range of interventionist policies in the colonial world (Cooper and Packard 1997: 7). Two discourses were characteristic of post-World War II society. On the one hand, it was argued that alleviation of poverty needs specific interventions in collaboration with international developing agencies (ibid.: 1). On the other hand, based on modernisation theory, development was thought as unilinear economic evolution in five stages, moving from 'backward' subsistence agriculture and limited technology to an age of mass consumption, where the industrial base dominates the economy (cf. Rostow 1960). However, these approaches were criticised by scholars arguing in the name of dependency theory, who state that this so-called 'underdevelopment' is based on the

⁵ If the focus is laid on acquisition of water, this is referred to as "water grabbing" or "blue grabbing" (Mehta et al. 2012).

inherited colonial legacy, which pushes these nations to the periphery of the world economy and deprives them of possibilities of development (Frank 1969). Others argue that development has to be seen as a historically produced discourse, within which hegemonic representations of Africa as 'Third World' and 'underdeveloped' are "the heirs of an illustrious genealogy of Western conceptions" (Escobar 1995: 7). Ferguson (1990) further identifies problems related to the development apparatus as an *anti-politics machine*, constructing realities and expanding bureaucratic state power, while also concealing power asymmetries.

Despite all the critique, the neoliberal development discourse insists that investments in land are able to elevate rural populations out of poverty – "if managed well" (Deininger and Byerlee 2011: xxv). LSLA provide local people with jobs, open up access to markets and technology, and allow for integration into regional markets and provide important infrastructure (Deininger and Byerlee 2011; World Bank 2008). Nevertheless, certain possible negative impacts are addressed as well. Ecologically, highly mechanised monocultures relying on chemical fertilisers and pesticides lead to environmental damage and resource degradation, and misreading of local resource rights can fuel conflict and inequality (Deininger and Byerlee 2011: xxv; Peters 2013a: 555). In order to minimise these risks and as a response to reports of dispossession and displacement, as well as due to the emergence of corporate social responsibility agendas, the World Bank introduced the 'Principles of Responsible Agricultural Investments' (Peters 2013a: 548; Deininger and Byerlee 2011; Borras and Franco 2010b).⁶ However, they remain voluntary (cf. FAO 2012), and Borras and Franco (2010b: 510-511) argue that the idea of a Code of Conduct advocates LSLA as a vision of successful capitalist economic development, instead of taking into account the profoundly complex political economy question of land rights.

Like the proponents of a Code of Conduct, who view the problem of LSLA as an investment problem, the prevailing development discourse suggests that more investments – implemented 'properly' – will create new jobs. The World Bank report on the rising global interest in farmland states:

⁶ The proposed Code of Conduct in land deals includes following principles: 1) Transparency in negotiations, 2) Respect for existing rights, 3) Sharing of benefits, 4) Environmental sustainability, and 5) Adherence to national trade policies (Borras and Franco 2010b: 514).

"How much local populations can benefit will be determined to a large extent by the employment intensity of potential investments. Employment generation is often a key avenue for local people to benefit from outside investment because for bulk commodities, it is at the production, rather than the processing stage that employment is generated. In many developing economies, the ability of the agricultural sector to absorb labor and provide gainful employment provides a key safety net" (Deininger and Byerlee 2011: 38).

The issue of employment is critically discussed by a number of authors discussing from a labour perspective. As noted before, a major legitimising discourse in the debate on LSLA is the potential of such investments to integrate the rural poor into wage-labour economy, and thereby reduce poverty.

Drawing on Marx's concept of *primitive accumulation*, authors arguing from a labour perspective note that this concept is useful for understanding impacts of LSLA on rural populations (Baird 2011: 11). Marx describes *primitive accumulation* as the forceful separation of people from their means of production, whereby they have no other option than to sell their labour in order to survive and move into a proletarian future (Marx 1962 [1867]:741f.). David Harvey (2003: 145) takes up this notion and speaks of *accumulation by dispossession* as a current form of *primitive accumulation*, in order to refer to the expulsion of rural populations through privatisation and commodification of land. Therefore, *accumulation by dispossession* is the defining element of the dominant form of *primitive accumulation* as it unfolded in the contemporary neoliberal capitalist project (Prempeh 2006: 88). Following this theoretical line of thought, LSLA constitutes a form of *accumulation by dispossession* if subsistence farmers are separated from their means of production. In some cases, the dispossessed farmers are incorporated loosely into the capitalistic production as workers for the company, thus move into a proletarian future. However, various authors (Baird 2011; Li 2011; Peters 2013a) stress that in many cases these farmers are not absorbed by the capitalistic production and therefore are excluded from their means of production without being incorporated into capitalist production. As Li observes, "what makes it hard for landless people to accept their *de facto* proletarian status is that there is no sign that they can move into a proletarian future" (2011: 296), since their labour is not needed by capitalist production (Baird 2011; Li 2011; Peters 2013a).

Ferguson (2015) picks up the problematic of the proletarian future in sub-Saharan Africa when reflecting on "new politics of distribution". Ferguson exposes the prevailing

problem in the world of development on the basis of the dominant saying 'Give a man a fish, and you feed him for a day. Teach a man to fish, and you feed him for a lifetime'. The slogan expresses an economic core belief that the solution to poverty and hunger is bringing people into productive labour, that is engaging the people in the world of production (ibid.: 35ff.). However, Ferguson persuasively argues that the problem of poverty and hunger is falsely located as one of production; rather, it seems to be a fundamentally distributive problem. It is not that people need the opportunity to work; the problem is that there is no work. By illustrating the example of the fishing industry in Africa, Ferguson points out to decreasing labour demand in spite of capital investments that have led to greater catches (ibid.: 36-37).

The example of the fishing industry is transferable to food in general. The FAO (2015) declares that globally enough food is being produced to provide to the world's population⁷, and locates the problem as a distributive problem. As Ferguson argues, more attention must be paid to the realm of distribution to see that "in a world of massive overproduction and widespread poverty, it seems almost embarrassingly obvious that what is needed most is neither more fish nor fishermen and -women" (2015: 38), but that the problem is "what to do with the surplus millions who would be only too happy to work for wages but for whom no jobs can be found" (ibid.: 80-81). Therefore, rural populations affected by this agrarian transition often do not move into a proletarian future, but evolve in surplus populations of the dispossessed (White et al. 2012: 624). Yet these surplus populations are by no means surplus to society's capacity to provide subsistence, rather than to "capital's requirements for labour" (ibid.: 625) and to "the requirements of a more efficient agricultural sector" (Li 2010: 60).

To sum up, the last decades have generally seen a shift from a people-scarce to a people-surplus system (Ferguson 2015: 152). New enclosures of land dispossess rural people of their land, while at the same time the global capitalist system is not able to absorb their labour, thus creating a pool of surplus people rather than a labour reserve.

2.4. New Institutionalism and CPR

In order to develop an understanding of how LSLA concretely affect local livelihoods, an understanding of how access to resources was structured before implementation of a

⁷ FAO. Corporate Document Repository. <<http://www.fao.org/docrep/x0262e/x0262e05.htm>> and <<http://www.fao.org/docrep/x0262e/x0262e05.htm>>.

land deal, and how access has changed in the course of a land deal is necessary. Ribot and Peluso (2003) hold that deriving benefits from resources is not necessarily defined over *ownership* and *rights*, but through the *ability to access* and therefore derive benefits from a resource. When theorising access and changes in abilities to access, a conceptual framework that considers economic, social, and political factors in confluence with local changes occurring in these fields is required, meaning that access has to be embedded in an institutional setting (Galvin and Haller 2008: 14). This calls for a processual approach, which includes schools of thought from economics, political science and social sciences; the approach of 'New Institutionalism' complies with these requirements.

From a perspective of New Institutionalism, the rules and regulations that structure human action and interaction are labelled *institutions* (Haller 2013: 16). Douglass North defines institutions as the "rules of the game in a society" (1990: 3). These institutions or *rules of the game* include constraints, norms, values, rules and laws (Haller 2013: 16). Institutions can be formal or informal, which is undoubtedly a colonially shaped distinction.⁸ Formal institutions are determined by the state in e.g. laws, whereas informal institutions are developed by local populations and embedded in their larger socio-political and cultural systems (ibid.). Amongst other things, formal and/or informal institutions structure access to resources. Institutions, such as property rights, can simultaneously be developed in formal and informal institutions, implicating a complex overlapping, or even competing institutional setting.

If these institutions function efficiently, they reduce transaction costs, meaning the costs that emerge when two people engage in an economic transaction (ibid.). These costs emerge because in the course of a transaction, information about the product and the behaviour of other actors has to be gathered, as well as monitoring and sanctioning of other's behaviour has to be guaranteed; these are time- and resource-consuming activities (North 1990, cited in Haller 2013: 16). Institutions facilitate cooperation through adding a certain predictability to human behaviour, and therefore act as incentives for both groups and individuals (Ensminger 1992: 5ff.).

Political economist Elinor Ostrom (1990) contributed much to understanding the conditions under which people and groups have incentives to conserve respectively overexploit natural resources, especially common pool resources (CPR). CPR are shared by groups of people and defined by their *subtractability* and *excludability* (Acheson

⁸ see Peters 2009 and 2013b.

2011: 321). *Subtractability* means that one person's use of the resource subtracts from the remaining amount available to others. *Excludability* refers to the difficulties of excluding others from using the resource (ibid.; McKean 2000: 28). Many overexploited and threatened natural resources fall into the category of CPR (Acheson 2011: 320). Therefore, there is a need to institutionally ensure *excludability* and address the issue of *subtractability*, for example via property right regimes (Haller 2013: 12).

An important contribution in the discussion on overexploitation of CPR was Garret Hardin's (1968) article 'The tragedy of the commons'. Hardin argues that the common property nature of resource regimes leads to depletion and overexploitation of commonly used resources. His explanation lies in the prisoner's dilemma⁹: Since, according to Hardin, commonly managed resources are open to everyone, users tend to overuse resources in order to maximise their individual gain. They act this way although this possibly leads to the Nash equilibrium, which is the destruction of the resource due to depletion. Having traced the ultimate problem to a lack of property rights, he saw the solution in privatisation and maintaining state control of resources.

A number of authors such as Acheson (1989) and Ostrom (1990) oppose that resources are rarely subject to open access situations (Haller 2007: 7). Ostrom analyses that one way to solve the collective-action problem described in the prisoner's dilemma is by dictating rules, so that players do not play their dominant strategy (Acheson 2011: 324). Ostrom (1990: 89-90) identifies eight Design Principles to which these different rules underlie. These Design Principles describe essential conditions that account for success of institutions in sustaining CPR:

⁹ The prisoner's dilemma describes a hypothetical game, which shows that two individuals might not cooperate, even though both would gain from cooperation. The classic example is that of two criminals who have been caught, but cannot communicate with each other (Acheson 2011:323). The situation with the greatest pay-off would be cooperation: both remain silent. The worst outcome would be if both confess. If one remains silent, one wins and the other loses. Since they have no option of sanctioning the other, both figure it is better to confess in order to get a light sentence, leading to a situation in which both have the worst outcome; this is called the Nash equilibrium.

- | |
|---|
| <p>(1) Clearly defined boundaries of the CPR and of the group that has rights to access and benefit from the CPR.</p> <p>(2) Rules have to be appropriate to local conditions.</p> <p>(3) Affected groups must be able to participate in modification of the rules.</p> <p>(4) Monitors have to be accountable to the users, or have to be users themselves.</p> <p>(5) Graduated sanctions for rule violators.</p> <p>(6) Conflict-resolution mechanisms must be accessible.</p> <p>(7) Rules and institutions must be acknowledged by external authorities.</p> <p>(8) Institutions must be nested into the larger institutional setting.</p> |
|---|

Table 1: Design Principles of robust CPR institutions (Ostrom 1990: 90-102).

Furthermore, Ostrom discusses the aspect of discount rates with relation to overuse of CPR. Ostrom notes that individuals discount future benefits; discount rates are high if less value is attributed to distant future benefits of CPR and more value to expected immediate future benefits (1990: 34). In uncertainty whether there is enough food for the current year, discount rates of the distant future will be high when traded off against increasing probability to survive the current year. These discount rates are affected, amongst other things, by the faced levels of physical and economic security and the range of opportunities outside a given situation (ibid.: 35, 37). Therefore, discount rates are influenced by economic opportunities, as well as by expected future use: “Appropriators who are involved in activities that take them away from their CPR and into an economy in which other opportunities exist are most likely to adopt a high discount rate than are appropriators who presume that they and their children are dependent on the local CPR for major economic returns “ (ibid.: 206). Accordingly, the higher the discount rate, the more likely the resource is subject to overuse by all individuals (ibid.: 91).

Two aspects that are not considered in the rather depoliticised approach by Ostrom, but are taken up by Jean Ensminger's model of *Institutional Change* (1992), are the notions of *power* and *ideologies*. By integrating these two notions into a wider institutional setting, Ensminger provides useful analytical tools for analysing changes of resource management and conflicts from a new institutionalist perspective. In her model of institutional change (Figure 1), Ensminger distinguishes *external* and *internal* aspects of a society. *External* factors include changes in the social and physical

environment, as well as demographic and technological changes. *Internal* factors include ideology, institutions, bargaining power and organisation. The complex interplay between *internal* and *external* factors, but also among the respective factors themselves, explain institutional change.

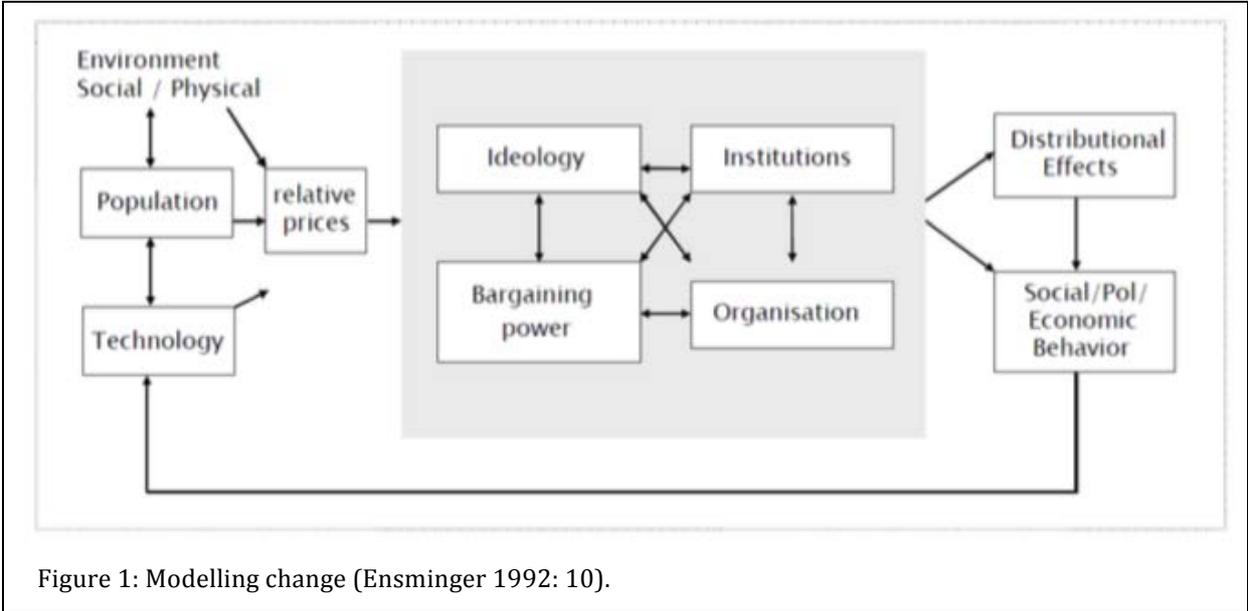


Figure 1: Modelling change (Ensminger 1992: 10).

As noted above, institutions are the formal or informal rules of the game in society. Ideologies are described as the "values and beliefs that determine people's goals and shape their choices" (Ensminger 1992: 5). Haller (2013: 23) further adds discourses and narratives to ideologies; if ideologies are strategically worldviews, discourses build the related coherent argumentations, and narratives constitute coherent stories how things come about. Ideologies, discourses, and narratives influence *bargaining power*, the concept in which Ensminger includes the aspect of power. *Bargaining power* is "one's ability to get what one wants from others" (Ensminger 1992: 7). This ability is determined by an individual's wealth, social position, or the ability to manipulate ideologies of others (ibid.: 6-7). Furthermore, Haller states that ideologies, discourses, and narratives have the potential to enhance legitimacy of actions and bargaining power in order to establish a preferred institutional setting (2013: 23). Accordingly, Ensminger importantly holds: "Given that some actors have more bargaining power than others, as well as diverging goals, it is not surprising that the institutions they promote rarely represent the most efficient outcome for society as a whole" (1992: 22). Finally, organisations describe the specific formation of people to groups in order to achieve

their goals (Ensminger 1992:6). According to North (1990: 5), these organisations can be political, economic, educational or social entities. The described *internal* factors are subject to change due to changes in *relative prices* (Ensminger 1992: 10). *Relative prices* are changes in prices for a good in relation to other goods (Haller 2007: 15), and are influenced by the *external* factors. Haller further proposes to add the political and economic environment, as well as state control, infrastructure and transport systems to the external factors (ibid.: 16).

Returning to the debate on LSLA, Ensminger's model depicts institutional change as dynamic process, which brings local property and user rights into relation with external changes. The commodification of land leads to a change in the relative price of land (and its associated common pool resources). But also technological changes such as infrastructure and electricity influence the relative price of land in a specific context, as well as demographic changes that might simultaneously be happening independent from land deals. These external changes and the subsequent increase in relative price in turn affect the internal factors and lead to institutional change. Processes of institutional change include changes in terms of who owns land and associated resources, but also who holds the power to access land and CPR such as water, pastures, fisheries, etc. By taking into account the notion of power relations, it is not always institutions that are most adapted to the local context or benefit people equally, which are adapted, as Ostrom suggests, but those that benefit actors with higher bargaining power. Therefore, understanding access to land from the perspective of New Institutionalism allows going beyond the notion of ownership and property. I turn to the discussion on developments of land and property rights in sub-Saharan Africa in the next subchapter.

2.5. Land and Property Rights Perspective

The preceding outlined approaches to LSLA have shown that formal and informal institutions, which govern rights and access to land – especially property right regimes – are crucial when looking at land deals and how resources are distributed within a specific context. In sub-Saharan Africa, rights to land are more often than not embedded in social and political relations (Peters 2009: 1318). Furthermore, rights can have their roots in various sources (Toulmin 2008: 11).¹⁰ Prior to European colonisation, resource

¹⁰ Toulmin lists sources such as first settlement, conquest, allocation by the government, long occupation or market transaction (2008: 11).

users gained access to land and associated common pool resources on the basis of local land tenure systems. Local land tenure systems still apply to a large extent for resource use today; however, although today's systems claim to have their legitimacy in 'tradition' and are referred to as 'customary tenure', these social relations around land and conceptions of property in sub-Saharan Africa have been fundamentally reshaped under colonial rule and post-independent governments (Cotula et al. 2007: 1; Peters 2013b: 544). With the imposition of colonial rule, much land that was not visibly cultivated or settled was deemed unowned (Alden Wily 2011b: 741). This was often the case with communally owned land such as forests, rangeland, and other unfarmed commons (ibid.: 736). Communally held land could usually, by custom, not be sold. Consequently, interests of African landholding were reduced to occupation and use, rather than full ownership (ibid.: 741).

The making of customary land tenure, as a joint 'creation' of colonial officials and African leaders, was a transformation of previous modes of land access, use, and transfer (Peters 2009: 1317). First, the colonial rulers deemed African landholding backward and in need for privatisation in order to reach 'civilisation', a view that prevailed in modernisation and development discourses (Peters 2013b: 544-545). Second, full property rights in terms of individual property were feared to threaten political control of colonially appointed chiefs. These appointed chiefs were crucial for the functioning of indirect rule, and if individuals would be able to separate themselves from the 'tribe', it was feared that these might be able to undermine the chief's authority (ibid: 544-546). Therefore, customary land tenure was created as a means by which authority over land was shifted upwards from family heads, lineage heads and town chiefs to territorial bound chiefs. Subsequently, political authority was progressively linked with authority over land, and full property rights under customary tenure were denied (ibid.).

After independence in the 1960s and 1970s, many newly independent African countries sought to replace customary land tenure systems with European based concepts of private ownership and property rights (Peters 2013b: 546; Cotula et al. 2007: 5). Customary land tenure was viewed to not provide adequate tenure security, and thus regarded as negatively affecting agricultural investments and productivity (ibid.). For example, in Kenya, the colonial land tenure reform of 1954, which was adopted by the post-independent government, aimed to register customary rights and convert them into freehold, thereby replacing customary tenure systems with private

ownership (for a detailed discussion see chapter 4) (Cotula et al. 2007: 33). Secondary rights remained unregistered, which especially affected women, who held rights to access land through their status as wives or daughters. Alden Wily (2011b: 742) notes that the dominant trend towards suppression of customary rights, “diminishing their validity as property”, led to increasing central government control. In the course of launched programmes like in Kenya, much of communally owned land was taken by the state or state-controlled agencies or authorities (ibid.: 743).

Nationalisation of resources and landholding led to a situation in which much land in African countries is still owned by the state today (Cotula 2012: 670). According to Alden Wily (2011b: 735), less than 10% of Africa’s land is subject to formal entitlement. Despite state ownership, local communities often regard these resources as commonly owned and access it via customary tenure, which often places the commons under a dual, overlapping, at times contradictory, tenure (Cotula 2012: 670; Alden Wily 2011a: 4). Haller (forthcoming 2016) argues that this shift in property from local control to centralised state control leads to a fragmentation of cultural landscape ecosystems, that is ecosystems that are not pure nature, “but have been used and transformed by humans for centuries” (369). Whereas the combination of private and common property systems, coupled with the recognition that different resources are interlinked, enabled flexibility of resource use and access, the (legal) fragmentation and privatisation of resources undermines this possibility. Furthermore, overlapping and contradictory tenure systems can lead to what is termed “institution shopping”, a situation in which actors will choose the institution which is most likely to rule in their favour (Toulmin 2008: 13; Haller forthcoming 2016), and resource fragmentation, Haller argues, undermines resilience capacities of people using these cultural landscape ecosystems.

Nevertheless, considerable insecurity of tenure rights of rural populations has called for more formalisation and privatisation of land rights in the course of increasing LSLA, in spite of failure of many titling programmes in the 1960s and 1970s (Deininger and Byerlee 2011; Peters 2013b; Alden Wily 2012; Toulmin 2008). Authors such as Peters (2009, 2013b) and Alden Wily (2011b) exemplify that land, which is customarily held, is facing increasing threat in the current wave of land acquisitions. Formalisation and privatisation would indeed bring clarification over ownership, however, by ignoring complex patterns of access and user rights, overlapping claims and seasonal variations, the access to resources of secondary rights holders such as women or nomadic groups,

who can access land although they cannot claim ownership, would possibly be undermined again. The degree of legal vulnerability, as Alden Wily (2011b) terms it, affects vulnerability and resilience capacity of local livelihoods, which are discussed in the next subchapter.

2.6. Climate Variability and Resilience of Rural Livelihoods

One of the biggest environmental and social challenges the 21st century world faces can be subsumed under the term “climate change” (Mearns and Norton 2010: 1). Anthropogenic climate changes such as global warming raise various questions on different levels, such as how to control this phenomenon and how to deal with its impacts. Mearns and Norton point out that connections of growth, prosperity, equity, and sustainable development are fundamentally challenged through climate change (ibid.). The fourth assessment report of the Intergovernmental Panel on Climate Change (IPCC) states that Africa is among the most vulnerable continents to climate variability (Boko et al. 2007: 435).

In the debate on climate change and climate variability, vulnerability and resilience capacities of rural livelihoods are often discussed.¹¹ Vulnerability can be defined as the “susceptibility to circumstances of not being able to sustain a livelihood” (Adger 2006: 272). However, vulnerability “does not fall from the sky”, as Ribot (2010: 49) puts it, but has to be embedded in the wider political economy of resource use. This means that vulnerability is driven by “inadvertent or deliberate human action that reinforces self-interest and the distribution of power in addition to interacting with physical and ecological systems” (Adger 2006: 270). In other words, vulnerability describes the inability to manage stresses or adapt to changes and is produced by, amongst other things, unequal access to resources, social inequality, and lack of representation, and therefore results from specific conditions and inequalities on the ground (Ribot 2010: 49).

Vulnerability relates to resilience in that it is a lack of resilience to changes that threaten welfare (Moser and Satterthwaite 2010: 236). Resilience can be defined as “multiple and diverse livelihoods that combine a range of capabilities, assets, and activities in order to off-set risks and cope with stresses and shocks such as drought, disease, and loss of employment” (Chambers and Conway 1992, cited in Cousins and

¹¹ See for example Adger 2006; Mearns and Norton 2010; Ribot 2014; Haller 2015.

Scoones 2010: 42). Further, these livelihood strategies have to be institutionally mediated. For example, land constitutes an asset, access to which is mediated by institutions, such as land tenure (Cousins and Scoones 2010: 42). Agrawal points out that institutions are crucial when it comes to adapting to climate variability, since institutional arrangements „structure risks and sensitivity to climate hazards, facilitate or impede individual and collective responses, and shape the outcome of such responses“ (2010: 174). It is important to note that people of a community can have different levels of vulnerability, often relating to structural and group characteristics such as age, gender, and ethnic affiliation, to name a few (ibid.: 177).

I propose to broaden the focus on resilience in relation with damages of climate hazards to the discussion on LSLA. As Haller (2015) shows, climate variability hits already transformed institutional contexts and can cause a further new twist in institutional settings. LSLA, like climate hazards, can induce changes such as the loss of (access to) land and other resources. In rural economies dependent on agriculture, land builds the basic livelihood asset from which people produce food and earn their living. However, benefits derived are not limited to land itself; a range of associated resources can be harvested as well. Furthermore, it builds the basis for wealth and livelihood security (Quan 2000, cited in Cousins and Scoones 2010: 42). However, Cotula (2013: 14) has pointed out that LSLA tend to remove control over land and these associated resources (e.g. water) from the people who are most directly concerned, implicating that institutions regulating access to and control over resources are inevitably altered, subsequently leading to changes in resource access and use. In the case discussed in this thesis, the swamp acquired by the investor proved to be an important buffer for unpredictable climate variability (this is discussed in more detail in chapter 5.2.). Therefore, actions in the name of development can pose an additional threat to local livelihoods additionally to climate variability, in that they affect vulnerability and resilience capacity (Ribot 2010: 48).

2.7. Knowledge Gap

The preceding subchapters have revealed that the body of literature on the debate around the phenomenon of LSLA focuses on various aspects. In its initial stage, the debate linked to LSLA has mainly been focusing on the ‘crisis’ motivating foreign investors and the size of acquired land, thereby creating a dichotomy of positive versus

negative effects for affected local people. However, discussions have increasingly been embedded in the political economy of resource use and access, including discussions on labour, control of resources, power relations, and taking into account historical developments. Yet after much substantial data has been gathered on various important aspects of the debate, little is still known about emic perceptions of affected local people. Scoones et al. (2013: 479) legitimately ask how local participants can have a say in the whole debate.

One possibility of including local people in the debate is to gain insights into emic perspectives of different groups of people affected by land deals. Drawing on Ensminger's model of institutional change (see 2.4.), LSLA can already be identified as an external factor that triggers a change in the relative prices of land and associated CPR, which subsequently transforms a local context. However, in order to assess local impacts of a land deal, an understanding of the already (colonially) transformed institutional setting, as well as the physical and legal resource fragmentation that occurred prior to a land deal is required. Furthermore, it is necessary to understand how cultural landscape ecosystems are locally perceived, not only ecologically, but also with possible spiritual and religious knowledge related to these landscapes (cf. Haller forthcoming 2016). Attention also has to be paid to changing power relations, as well as ideologies, discourses, and narratives, which shape legitimacy for choosing certain institutional arrangements (see 2.4.). Only then it is possible to understand how local people perceive a land deal, how they evaluate impacts, and reactions to (impacts of) a deal. However, concrete knowledge on how land deals ultimately hit a specific local context, and how they further transform an already transformed institutional setting, remains sparse.

Moreover, research also rarely deals with motivations of investors or companies initiating land deals, and how and with which interests specific actors make deals possible in a certain context. Thus, we lack data concerning emic perceptions of heterogeneous groups of affected local people and of companies, both embedded in contexts of institutional change. The interdisciplinary research project *Ethnography of Land Deals* aims to fill these gaps.

3 Research Project and Methodological Approaches

Following the theoretical outline on LSLA and the identified knowledge gap, research committed to affected people's heterogeneous perspectives on land deals, as well as their implementation and impacts, remains sparse. The interdisciplinary research project *Ethnography of Land Deals* aims to fill this gap. Under the lead of Prof. Dr. Tobias Haller and Prof. Dr. Stephan Rist, the research project *Ethnography of Land Deals* was developed as a collaboration between the Institute of Social Anthropology and the CDE at the University of Berne, Switzerland.¹² The research project aims to fill the identified knowledge gap (see chapter 2) by conducting comparative in-depth fieldwork on LSLA on two different levels. The two different levels consist of a *horizontal* and a *vertical* level, which intend to understand the emic views of local heterogeneous actors on the one hand, and the perspectives of the companies on the other hand. In order to provide a comparative approach, research was conducted in India, Sierra Leone, and Kenya. Leonie Pock and Romy Scheidegger did research on a biofuel project in Rajasthan, India; Fabian Käser, Samuel Lustenberger, and Franziska Marfurt conducted fieldwork in northern Sierra Leone investigating the Swiss Addax Bioenergy Project, and Elisabeth Schubiger and I did research on the Dominion Farms Project in western Kenya. In order to adequately address the *horizontal* as well as the *vertical* level, common research questions were developed.

3.1. Research Questions and Hypothesis

The aim of the fieldwork on the *horizontal level* was to derive an understanding of heterogeneous emic perspectives on a land deal with regards to the implementation of the project, impacts, and strategies to deal with the land acquisition. The perspective of affected people was chosen to explore local impacts, which have yet sparsely been subject of research within the discussion on LSLA. Therefore, following general questions were developed:

- How have land rights and common property organisation and institutions, as well as concepts of development been transformed;

¹² The research design was developed in collaboration by Prof. Dr. Haller and Prof. Dr. Rist and the students participating in the project. A description can be accessed on the website of the Institute of Social Anthropology of the University of Berne (www.anthro.unibe.ch; Research, Research Projects, 'Ethnography of Land Deals').

- How do different affected heterogeneous actors in terms of age, gender, and social status, perceive the implementation process? How do they perceive the project ten years after its implementation;
- How do these different local actors deal with the project and its direct and indirect impacts? What kind of strategies do local actors develop in order to cope with impacts?

The aim of the *vertical level* was to gain deeper insight about the specific actors involved in the implementation process, how the deal was able on a legal basis, and which ideologies and discourses were used to legitimate the deal on different levels. Elisabeth Schubiger (2015) outlines the specific research questions for the vertical level of our case in her Master Thesis:

- What was the legal basis on which bargaining power is based?
- What are the political and religious implications that make such a deal possible?
- How do ideologies, discourses, and narratives produce legitimacy?

Based on the commonly developed research questions, research designs were drafted and complemented with individual research questions. In the course of 2013 and 2014, all groups conducted fieldwork ranging from three to four months. Whereas Elisabeth Schubiger focused on the vertical level of the land deal, my focus was on the horizontal level. Recalling the theoretical approaches to LSLA outlined in chapter 2, I developed the following hypothesis:

I argue that the acquisition of 6,900 ha of the Yala Swamp by Dominion Farms leads to a situation, in which diversification of livelihood strategies is limited, because local people have lost access to a CPR, which built the major livelihood basis. Recalling the labour perspective, I broaden the hypothesis and argue that, because the project is not able to absorb the affected population into wage labour, the context of low livelihood diversification possibilities in combination with lacking employment deteriorates resilience of local livelihoods.

By focusing on emic perceptions of the value of the swamp on the one hand, and perceptions of economic and ecological impacts of the project on the other hand, this hypothesis will be tested in the course of this thesis.

3.2. Research Process

Before discussing the methods applied in the field, I would like to address the procedure before travelling to Kenya in March 2014. Elisabeth Schubiger and I were able to join the research project because the group that was supposed to do research in Kenya quit at short notice. However, we had both visited the seminar *Land Grabbing: New Tendencies and Debates* at the University of Berne, so we were both acquainted with the topic. As I was just finishing my bachelor's degree when the request from Prof. Tobias Haller came, I decided to write my Bachelor Thesis on Luo communities, the ethnic group living in the region of research. My Bachelor Thesis, *Institutional Change in the Context of Land Use and Fisheries Among the Kenya Luo: A Historical Analysis* (2013), proved to be an ideal preparation, additionally to being acquainted with the topic of LSLA.

In the beginning of March 2014, Elisabeth Schubiger, my then 5-year-old son, and I travelled to Kenya, where we conducted fieldwork until the end of May. After staying in Nairobi for one night, the Centre for Training and Integrated Research in ASAL Development (CETRAD) in Nanyuki, Laikipia County, was our next station. CETRAD is a Bilateral Institution between the Government of Kenya and the Government of Switzerland, through the CDE. They facilitated our access to the field by informing us about the procedure how to formally access the field (through which authorities), and by providing us with a Letter of Introduction. CETRAD also provided us with a research assistant, a Luo woman living in Kisumu, provincial capital of former Nyanza Province in western Kenya. She also helped us access the field; her further influence on our research is discussed in the next subchapter.

Our research team lived with a Luo family near the swamp and the company for ten weeks, whereby my son was there for the first half of the research stay. The family we stayed with lives in Kadenge sublocation and was organised by our research assistant, and was around five to ten minutes away from the swamp and the company headquarter by motorbike. Not being in a *dala*¹³ adjacent to the swamp gave us the opportunity to see how people could be differently affected by the investment, depending also on the physical distance to the swamp.

¹³ Dholuo term for homestead. A traditional Luo homestead consists of the main *dala*, which belongs to the head of the household (usually the man), and the houses to the left and the right, which belong to his wife/wives and their sons.

The *dala* in which we stayed consisted of a 45-year-old woman and her two teenage sons. Her husband and her daughter lived in Siaya, the closest town – although she and her husband live separately, they are still married, which is rather unusual. The homestead was rather poor. The land on which our host mother had her *dala* belongs to her mother-in-law, a healer, who also lives on the same land, which she inherited after her husband's death. Living with a local family enabled us to take part in daily activities such as cooking, washing, and of course working on the field. This leads me to the description of methods that were applied during the research stay.

3.3. Mixing Methods

In order to answer the beforehand mentioned research questions, different methods were applied. A mixed methods approach proved to be necessary for gaining information about different aspects of the issues of interest. During the initial explorative phase, which involved getting to know the area and the people, participating in daily activities, as well as developing a sense for topics important to people in the area, the methods of *participant observation* in combination with writing research diary, and *informal interviews* were applied.

The strength of the ethnographic method of *participant observation* is at the same time its biggest challenge: the simultaneity of and the balance between proximity and distance (Schlehe 2008: 120). The researcher participates in the daily life as well as in rather extraordinary events, whereas *participant observation* can vary from rather active participation to passive participation (Hauser-Schäublin 2003: 34). Although critics accuse this approach of not being representative and a lack of verification (cf. Spittler 2001), *participant observation* nevertheless proves to be important because it enables a comparison of what people tell the researcher and how they act in practice, which does not necessarily coincide.

Besides *participant observation*, we made use of *informal and unstructured interviews* especially, but not only, during the exploratory research phase at the beginning. *Informal and unstructured interviews* are open talks, and characterised by not conveying the classical interview feeling (Schlehe 2008: 124ff.). Both forms are helpful to uncover topics that are of importance from an emic perspective, since the topic is broadly defined, but the interviewee is not interrupted when straying from the preliminary topic. Therefore, *informal and unstructured interviews* allow for maximum

space in which the narrative of the interviewee can develop in his or her own words and pace (Bernard 2002: 205). These methods were used throughout the whole research period.

In a second phase, we made use of more targeted methods such as *semi-structured interviews*, *biographic interviews*, as well as *focus group discussions*. When conducting *semi-structured interviews*, the questions to be covered are noted down by the interviewer, but she or he still leaves openness to the interviewee (cf. Schlehe 2008, Bernard 2002). Therefore, there is no excessive control over the interview. This method is especially helpful if there is only one opportunity for an interview. This was a method used quite frequently during our research. *Biographic interviews*, which Schlehe (2008: 127-128) also classifies as a form of *semi-structured interviews*, give insight into the memory, interpretation, structuring and concepts of identity of interviewed people. Finally, *focus group discussions* are helpful for interests of a specific group of people on a specific topic (Crang and Cook 2007). It allows for a more closed setting where the group members all have more or less the same status and there is certain homogeneity among the discussing people.

During our research, the method of participant observation was applied throughout the whole period, ranging from passive observation to active participation, such as working on the field. With regard to the interviews, all the above-described interview techniques were applied, although a sharp distinction of interview techniques was not always possible in the field. Unexpected informal and unstructured interviews could not always be recorded, but were noted down in the research diary during or after the open talk. Focus group discussions were conducted with the village elders and a group of women, who were involved in women's groups.

Interviews were to a large extent conducted in English. Contrary to information we received, many people in Siaya County, Kadenge sublocation, and the surrounding areas could speak fluently English. Therefore, a permanent translator was not necessary. However, older people and sometimes women were not that acquainted with English. In such cases, interviews were conducted in Dholuo with a translator. Collaboration with the research assistant provided by CETRAD proved to be difficult at times. Unfortunately, with the constant presence of a Luo, many people switched from English to Dholuo when she was around, without explaining or translating into English. Due to the short time span of the fieldwork, it was not possible to acquire Dholuo to such an

extent that everything could be understood. However, we were able to learn some small talk after some time and could pick up certain important words, so we could get an idea of the topics people were speaking about.

Nevertheless, apart from our research assistant provided by CETRAD, we met another young man who translated interviews in Dholuo for us. We established many valuable contacts to people directly affected by the project, as well as to local politicians, people employed by the company and people fighting against the project. People generally seemed very cautious talking about the Dominion Farms project, and it took us some time to understand how people talk about things. However, people in Kadenge warmly welcomed us and were willing to talk to us about the project and their way of life. These people helped us understand their way of life and farming, their values and way of approaching conflicts, as well as their daily struggles, which are deeply linked to their loss of land.¹⁴

Evaluation of data followed an inductive grounded theory approach. The grounded theory approach gives priority to developing a topic from within itself, rather than verifying analytic propositions (Emerson et al. 1995: 143). However, Emerson et al. argue that data collection itself is influenced by the theoretical knowledge and analytical concepts acquired by the researcher, which is why ethnographic research has to be described as both a deductive and inductive process (ibid.: 143-144). The emphasis, however, is on an openness to new topics that might emerge during the research and evaluation process, while simultaneously being aware of the researcher's theoretical background (ibid.). Following Emerson et al., codes and memos were used for the analysis of the collected data. Thereby, transcribed interviews and the research diary were coded in order to identify topics, patterns, and contradictions within the data. This allowed for a triangulation of the data, meaning that patterns and statements of various actors could be compared and tested against each other in order to increase ethnographic validity (cf. Fetterman 1998: 93ff.). This inductive approach allowed me to discover new topics in the course of further seminars such as climate change, which opened up topics I would have not recognised in the data before.

¹⁴ The names of the interviewed local people for the purposes of this study have been withheld at the request of some of the respondents concerned. Interviews that are referred to in the text all took place between March 5 and May 28 2014 in Kenya.

3.4. Reflections on Fieldwork

Michael Jackson's discussion on a phenomenological approach to anthropology points out to one of the difficulties when conducting anthropological fieldwork: "The systematic and objective order which the ethnographer 'uncovers' in the course of fieldwork may not mirror any external reality but function as a magical defense against the unsystematic, disorientating reality he or she encounters" (1996: 5). In order to, as far as possible, avoid situations in which concepts become tokens of the real, and subsequently mistaken for the real, Jackson suggests to focus on *lifeworlds*. It is thereby important to emphasise what things are made to mean in a specific context, and what this meaning accomplishes for people who invoke and use them, rather than focusing on an alleged inherent meaning of things (ibid. 5-8.).

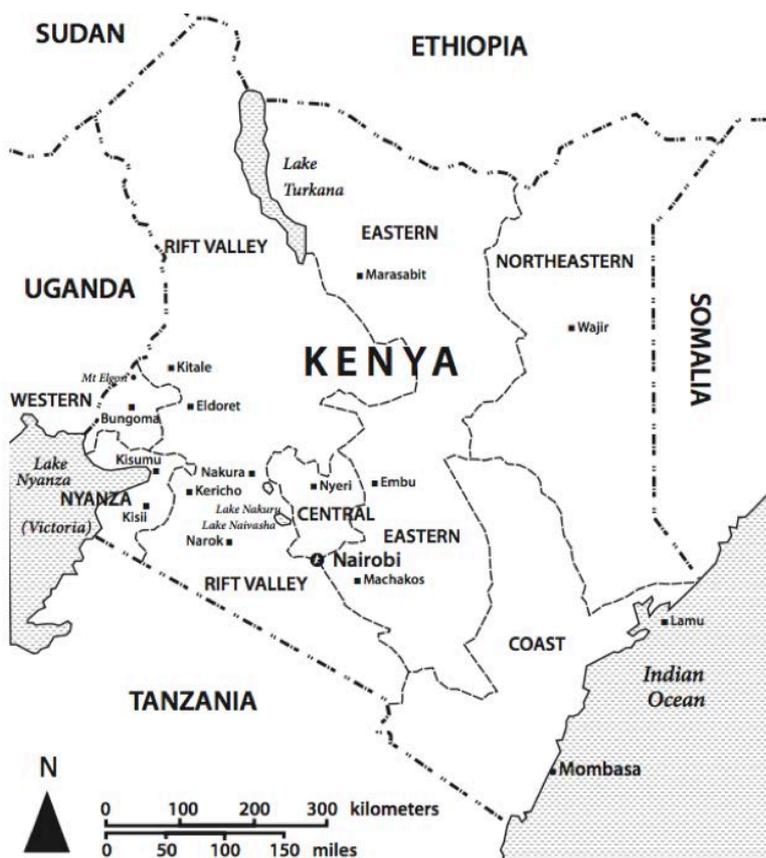
I argue that long research stays with participation in daily activities facilitates prioritising lived experiences over theoretical knowledge. In these daily experiences and by participating actively in the household, on the field, and various other situations with heterogeneous actors, and by engaging in a continuous process of self-reflection (Przyborski and Wohlrab-Sahr 2014: 58), it becomes more easily possible to recognise that the field is not spatially bound (ibid.: 53), and that it engenders various realities of different *lifeworlds*, rather than a single reality. Furthermore, the focus on one case allows to better comprehend the complexity of a myriad of realities. Therefore, this thesis does not present *things as they are* (Jackson 1996). It presents an in-depth case study conducted at a certain time and place, influenced by concepts, theories, and experiences in the field. Findings of this thesis are based on personalised accounts of local people at the time of research in 2014 in an unfolding and changing context, and try to prioritise the lived experiences of the people encountered.

4 Research Context

The following chapter aims to provide an overview of historical developments in Kenya. The focus lies on how resource control and management was increasingly transferred from local resource users to the colonial government, and on how the post-independent government continually applied the inherited colonial legacy of centralised resource control. Against this backdrop, the reader will be able to embed the local setting and the Dominion Farms project in a wider political and economic setting, which is characterised through conflicts over land for a very long time.

4.1. Kenya

Kenya encompasses an area of approximately 580,400km² in the East of the African continent, and borders the Indian Ocean in the South East, Ethiopia and South Sudan in the North, Uganda in the West, and Tanzania in the South.¹⁵ Administratively, the 2010



Map 1: Former provinces of Kenya, which are now divided into 47 counties (Boone 2012: 77).

New Constitution of Kenya divided the former eight provincial units into 47 counties (Wiesmann et al. 2014: 12).¹⁶ The largest urban cities are the capital Nairobi in central Kenya, Mombasa on the coast in the South, and Kisumu in western Kenya. 31% of Kenya's population lives in urban areas (ibid.: 18).

The population of Kenya was estimated to be around 39 Million in 2009, which can be divided into five major – of at least 42 – ethnic groups: the Kikuyu, the Luhya, the Luo, the

¹⁵ <<https://www.cia.gov/library/publications/the-world-factbook/geos/ke.html>>.

¹⁶ In this thesis, I will nevertheless refer to provinces (especially Nyanza Province), since provincial units are still recognised and used by most Kenyans.

Kamba, and the Kalenjin (Hornsby 2012: 2, 21ff.). Linguistically, Kenya's population can be divided into three main groups: the Bantu-speaking people (including the Kikuyu, Luhya, Kamba) building the linguistic majority; the Nilotic-speaking communities such as the Luo, the Kalenjin, and the Maasai, followed by a Cushitic-speaking minority in the north (ibid). Patterns of distribution of religious affiliations show that Islam represents the main religion throughout much of the north-eastern, eastern, and coastal regions, whereas forms of Christianity are most dominant in the highlands and neighbouring areas (Wiesmann et al.: 54–55). However, in most regions no single dominant faith can be identified, since there is a religious diversity and mix of Catholicism, Protestantism, other forms of Christianity, Islam, and traditional religions (ibid.).

With five climate and agricultural zones, Kenya constitutes one of the most agroclimatic varied countries in Africa (Hornsby 2012: 20). Land and agriculture builds the livelihood of 85% of the population. However, only roughly 20% of Kenya's land is said to have high or medium agricultural potential (FIAN 2010: 16-17). With about 75% of the estimated 39 Million people living in regions where agricultural potential is middle or high, population pressure in the fertile regions of Kenya is very high. This medium and high potential agricultural land is primarily used for commercial agriculture, with food crops occupying about 31%. Furthermore, 50% of Kenya's GDP and 80% of the export earnings are accounted to agriculture (Makutsa 2010: 19). Lacking access to land is deemed to be an essential factor contributing to the high poverty rate in Kenya. According to FIAN (2010: 15), approximately 10 million people are exposed to permanent food insecurity, and 2 million people are dependent on food security programmes. The lacking access to land has its roots in British colonisation, as shall be outlined on the following pages.

4.1.1. Kenya's History of Centralised Control of Resources

East Africa – and the African continent in general – was already interconnected with other parts of the world far before the colonial experience, as Eric Wolf impressively demonstrates in *'Europe and the People Without History'* (2010 [1982]). East Africa was not the isolated area of European imagination, but was connected to a network of overland routes and sea-lanes, which enabled trade between African, Asian, and Arab traders (ibid.: 40-42). Already as early as the tenth century, slaves, iron, and other trade

goods were exported to India, China, and beyond (ibid.: 41-42).¹⁷ The area was inhabited by mainly Bantu-speaking people, who were taking up cereal production, animal raising, and ironwork, when they probably came from today's Cameroon (ibid.). Until European colonisation towards the end of the 19th century, mobility was continuous among the different communities and served as adaptation strategy to various conditions, such as food shortages, war, disease, and population growth (Hornsby 2012: 21). Furthermore, most of these communities did not have fixed ethnic boundaries, but were characterised by their fluidity and processes of cultural assimilation and aggregation (ibid.: 24-25). Land tenure in pre-colonial Kenya was closely related to the availability of land, which in turn was connected with kinship relations and settlement patterns (van Zwanenberg 1977: 26; Hornsby 2012: 820). Furthermore, Hornsby stresses the fact that no trans-ethnic political structures existed prior to colonial rule, but that authority was "personal and local, a function of age, lineage, supernatural abilities, wealth and leadership skills, supported by the communal wisdom of elders and the physical power of young men" (2012: 27). Although some communities had more formal leaders than others, no centralised political structures existed in pre-colonial Kenya, and there was no notion of an entity like the state at hand (Ochieng' and Atieno-Odhiambo 1995: xiv).

With the establishment of the East Africa Protectorate under British administration in 1895, the boundaries of today's Kenya were set (Hornsby 2012: 21), or as Atieno-Odhiambo puts it, Kenya was *invented*¹⁸ (Atieno-Odhiambo 1995: 1). What followed in the next years with the imposition of colonial rule was the assertion of political sovereignty, ownership of large amounts of land by the British, and violent enforcement of racial segregation (cf. Hornsby 2012). Political sovereignty was imposed and maintained by violence (Atieno-Odhiambo 1995: 9), and the new rulers introduced the provincial administration in order to govern their colony (Hornsby 2012: 27). The newly invented country was divided into administrative units based on the needs of the

¹⁷ East African trade in gold, ivory, copper, and slaves increased massively in the thirteenth century, when the trade network of the southern seas over the Persian Gulf and the Indian Ocean took precedence over the continental trade routes (Wolf 2010 [1982]: 43).

¹⁸ This refers to the artificial creation of boundaries, but also to the invention of a common history. For more on the imagination of nations see *Benedict Anderson 1983: Imagined Communities: Reflections on the Origin and Spread of Nationalism*; for more on the invention of history see *Cohen and Odhiambo 1989: Siaya: The Historical Anthropology of an African Landscape*.

white settlers on the one hand, and their understanding of the present ethnic groups on the other hand (ibid.).¹⁹ This had the effect that beforehand fluid boundaries became increasingly rigid, and based on expectations of "ethnographic purity", the understanding of ethnic groups was oversimplified (ibid.: 25). By creating 'tribal' boundaries and *native reserves*, already prevailing tensions between groups were intensified (Ochieng' and Atieno-Odhiambo 1995: xv).

In order to enable white settlers to engage in commercial agriculture, vast amounts of the fertile highlands, which were deemed suitable for European agriculture, were deprived from Kikuyu and Masai communities. This land, which was specifically set aside for white European settlers, was declared Crown property and became known as the *White Highlands* (Fazan and Lonsdale 2015: 147; Hornsby 2012: 22-23, 26; Hauck 2001: 155). The colonial government leased or sold this land to white settlers based on a western conception of an individual land title system, with land lease terms up to 999 years (Hornsby 2012: 26). Consequently, approximately 20% of Kenya's land, most of which was of high agricultural potential, was distributed to a small number of white settlers (Klopp 2000: 16).

Additionally to taking over control over the most fertile land, the African population was forced into wage labour via different measures. A majority of the African population built the bottom of the colonial social and economic pyramid, of whom many were peasants or pastoralists living by means of subsistence farming in rural areas (Ochieng' and Atieno-Odhiambo 1995: xv). At the same time as the highlands were appropriated, the so-called *native reserves* were created, into which the African population was (re-) settled, and which were held in trust by the colonial administration. The African population was prohibited from entering lands occupied by Europeans, except as *squatters*. These were "semi-feudal tenants with land-use rights in return for work" (Hornsby 2012: 27). By committing themselves to working for the white settlers, *squatters* received a small parcel of land on which they could cultivate some crops and graze some livestock (Hauck 2001: 156). Accordingly, African landowners found themselves transformed to *squatters* basically overnight. By introducing a tax on each hut, the so-called hut tax, Africans could effectively be forced into wage labour as *squatters*, while simultaneously funds could be raised for the colonial government (Hornsby 2012: 29). Further, the colonial government introduced new profitable crops,

¹⁹ Colonial administrative units consisted of provinces, districts, divisions, locations, and sublocations.

such as maize, which soon became the staple food crop (ibid.: 29-30). Racial restrictions on the production of cash crops made it basically impossible to escape the work as *squatters* on settler farms (Hauck 2001: 156).

The colonial experience of Luo people in western Kenya, although peripheral, was intense. After the colonial government had imposed administrative units, chiefs were appointed based on the strategy of indirect-rule. These had the duty of collecting tax and recruiting men for the First World War, and later for road and railway building (Geissler and Prince 2010: 48). The colonial government classified 'the Luo' as a *labour reserve*, and movement out of western Kenya, parts of which was declared a *reserve*, was restricted. The burden in the rural areas of western Kenya fell on the women, who remained at home while the men sought employment in order to pay the imposed taxes (Hay 1978: 87).

Towards the end of the 1940s, a new resistance movement emerged, which would later be known as the Mau Mau Revolt²⁰. The Mau Mau Revolt, which emerged in the Rift Valley and the Central Provinces, started breaking up the fundamentals of colonial Kenya (Shipton 2009: 137). Alienation of a majority of the most fertile land to a small number of settlers resulted in economic distress among Africans. Rising tensions led to spontaneous attacks on settler farms and ended in a violent conflict in the 1950s (Klopp 2000:16; Hauck 2001: 156f.).²¹ The Mau Mau Revolt prepared the way for a constitutional reform and political developments in the forthcoming years and accelerated the transition to Kenyas independence in 1963 (Klopp 2010: 16). In the

²⁰ The meaning of Mau Mau is an etymological mystery (Kennedy 1992: 241). According to Dane Kennedy, it was open to any meaning anyone wanted to attach to it. Some argue that it is a term invented by European settlers, claiming that there is no reasonable explanation for the term (Leakey Louis cited in Kennedy 1992: 241).

²¹ The complexity of causation must be taken into account when regarding the Mau Mau revolt. Hauck identifies various reasons for the increasing tensions: population pressure increased in the reserves, which made production for subsistence more difficult; stratification in the reserves among the Kikuyu increased, as rich Kikuyu appropriated more and more land; the number of squatters increased through emigration out of the overcrowded reserves. This led to a surplus of squatters, which in turn led to worse working condition on the settler's farms. As there were too many squatters, the number of landless increased again, returning to the reserves or to Nairobi (2001: 156ff.). Cooper sees truth in a number of explanations: Mau Mau can be viewed as a manifestation of modern nationalism, or as a class struggle of landless squatters from a Marxist perspective (1996: 349).

course of Mau Mau, Kenya's first nationwide agrarian reform was implemented by the colonial government (Wangari, Thomas-Slayter, and Rocheleau 1996:130).

In 1954, the colonial government attempted the first nationwide agrarian reform under the direction of R. J. M. Swynnerton, an official in the Department of Agriculture for the British colonial government (Shipton 1995: 171). Based on the European freehold model, the aim of the 'Swynnerton Plan' was to convert all of the colony's land, also land under customary tenure, into private, individually owned, and titled land (ibid.). Customary law was seen as an obstacle to agricultural development, and to economic development in general (Coldham 1978:63). The Swynnerton Plan was primarily an answer of the colonial administration to the claim of the African population to be able to commercialise their production, to receive ownership over land, and to get rid of racial restrictions on property rights (Hebinck 1990: 58-59). Individual title-deeds were to be achieved through allocation, consolidation, and registration of land (Wangari et al. 1996: 130). Thereby, concerns regarding the unequal distribution of resources were neglected, as an excerpt of the Swynnerton Plan shows:

"In future, [...] energetic or rich Africans will be able to acquire more land and bad or poor farmers less, creating a landed and a landless class. This is the normal step in the evolution of a country" (Swynnerton 1954: 10, cited in Shipton 1988: 98).

This excerpt shows that the Swynnerton Plan planned on dividing Africans along class lines based on an evolutionary model: the landed yeomanry and a landless class, which would be labourers moving into a proletarian future (Atieno-Odhiambo 1995b: 43). Lonsdale rightly argues that the individualisation of land rights tended to neglect previous obligations to women (see 2.5.), and addresses the difficulty of attending local land adjudication committees, if not wealthy and influential (Fazan and Lonsdale 2015: 230). Nonetheless, implementation of the Swynnerton Plan continued under Kenya's first post-independent president, Jomo Kenyatta.

4.1.2. Politics of Land Since Independence in 1963

The agrarian question was also the main concern during independence discussions. Newly independent countries in the 1960s were led by a new generation of political leaders which emerged from anti-colonial struggles, but continued applying the colonial legacy (Cotula 2013: 22) The Mau Mau Revolt, although precipitating Kenya's transition to independence, failed to achieve its aims of reclaiming and distributing the *White*

Highlands (Klopp 2000: 16). The post-independent government of Jomo Kenyatta (1963-1978) did not decelerate individual land registration, but continued with the implementation of the Swynnerton Plan. Conflicts over land, wealth and power led Kenya to a one-party-state and a growing dominance of the Kikuyu, to which Kenyatta belonged, over other ethnic groups (Bates 1989: 46; Hauck 2001: 189ff.) The highly centralised control of land enabled Kenyatta to use former settler land as patronage to build alliances and secure political support (ibid.). A great part of political positions in the new KANU (Kenya African National Union) government as well as the fertile highlands were dedicated to loyal Kikuyus. Of the approximately 53,000 families that had received land until 1970, a majority constituted former Kikuyu loyalists, whereas many Mau Mau activists were punished with the loss of land (ibid.; Hauck 2001: 188). Therefore, the position of the governing and agricultural active European elite was transferred to the native elite, and no central structural changes took place in the colonial inherited economy.

Yet political liberalisation towards the end of the 1980s proved to be far more problematic than previously expected (Klopp 2000: 7). Under the presidency of Kenyatta's successor, Daniel arap Moi, intensification of irregular allocations of public land to well-connected individuals and companies massively increased (ibid.: 8). In a context of enhanced political competition, the highly accessible public land continued to serve as patronage, and administration officials, fearing that a change in government would endanger their privileged access to land, accelerated accumulation of land by a few (ibid.).

In 2002, Mwai Kibaki became new president of Kenya. Land politics remained central in the Kibaki regime and were central in the vote over Kenya's new constitution in 2010 (Boone 2012:89). Following decades throughout which land was allocated for political reward rather than for development purposes (Southall 2005 cited in Boone 2012: 89), Kibaki was under pressure to investigate these cases and hence, appointed a commission with the task of inquiring illegal and irregular allocation of public land (Boone 2012: 89). Criticising the centralisation of land-allocation powers in the hands of the president, the so-called "Ndungu Commission" called for a new land policy, which would be included in the new constitution of 2010. The new policy emphasised the protection of communal rights, in contrast to previous policies in favour of individual titling (ibid.: 89-91).

In 2007, presidential elections resulted in massive violence after Mwai Kibaki was declared winner, and his Luo opponent Raila Odinga alleged electoral manipulation. The post-election violence ended with reported deaths of 1,200 people, hundreds of cases of sexual violence, as well as the displacement of 350,000 people.²² Portrayed by the media as ‘inter-ethnic clashes’, Kanyinga (2009) rejects the idea that this violence is merely ascribed to ethnic clashes. The roots of the violence lie in land issues, he asserts, and is closely related to decades of colonial and post-independent handling of land, which ethnicised the land question and provided a basis for political conflict between ethnic groups. Following the traumatic 2007 elections, a Kofi Anan-mediated agreement required that a new land policy be voted by the end of 2009 (Boone 2012: 91). The new land policy, which is included in the new constitution, aimed at stepping towards tenure security for Kenyans.

4.1.3. Land Tenure in Kenya

After independence, Kenya’s Constitution determined three categories of land in Kenya: government land, trust land, and private land. The former *native reserves*, which were held in trust by the colonial administration for the African population, were categorised as ‘trust lands’ (O’Brien 2011: 14). The title for ‘trust lands’ was held by the County councils on behalf of local communities, as long as it remained unregistered or unadjudicated.

Under the new 2010 Constitution of Kenya, former government, private, and communal land has been re-classified as, public, private, and community land, whereas the latter comprises up to 70% of Kenya’s land (Makutsa 2010: 19–20; Alden Wily 2011a :13) Power over land at the local level is held by the 47 new county governments (Boone 2012: 93). According to Makutsa (2010: 20), with this re-classification and adjustment of land policies, land cannot be sold by the government anymore. However, others are more critical whether the 2010 new constitution will bring the hoped-for tenure security and de-politicisation of land allocation. Alden Wily (2011b: 749) criticises that Kenya’s new constitution is triggering a local land and commons grab, as officials rush to allocate untitled community lands to individuals and investors before

²² UKaid. Department for International Development. Elections in Kenya 2007.

<https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/67654/elections-ke-2007.pdf>.

such powers are curtailed by the new law. Further, Boone (2012: 94) holds that the question remains open, who will control land and in which way, even if the power of the president has been denied. She rightly notes that land allocation will not necessarily be depoliticised.

With regard to the outlined historical developments in Kenya, acquisitions of land as they nowadays occur in Kenya cannot be viewed as an entirely new phenomenon emerging only in the food, finance, and energy crises of 2007-08. Rather, there has been a persistence of contestation over land since Kenya was founded “by successive acts of land grabbing”, as Klopp notes, following that “land grabbing is as old as Kenya itself, if not older” (2000: 15). Kenya’s history shows that the country is prone to national land grabs since the imposition of colonial rule. However, Klopp and Lumumba (2014: 64–65) recently identified a number of foreign investors from Europe, the United States and Asia. Especially affected by these investments is the rich Tana River Delta, which together with the Yala Swamp constitutes one of the last remaining commons in Kenya (cf. Klopp and Lumumba 2014). These investments can be regarded as a convergence of Kenya’s historical legacy of state-led resource control, global market processes and crises, as well as neoliberal development policies. The latter, promoted by the World Bank and others, are continuously taken up in Kenya’s long-term planning strategy, Vision 2030. Therein, FDI projects are deemed as crucial for contributing to the economic growth of Kenya, and especially for agricultural development.²³ One of the various investments that should contribute to agricultural development is located in remote western Kenya, and is operated by Dominion Farms Limited.

4.2. Dominion Farms Ltd in the Yala Swamp

In contrast to the investments studied in India and Sierra Leone, the investment studied in this case is not carried out by a large company (cf. Käser 2014, Lustenberger 2015, Marfurt 2016) or by local organisations on behalf of the state (cf. Pock 2014, Scheidegger 2014), but by an individual investor. This individual investor is Calvin Burgess, owner of The Dominion Group of Companies, which is based in Oklahoma in the United States. According to the website of The Dominion Group, the companies

²³ Kenya Vision 2030. <<http://www.vision2030.go.ke>>.

"provide a diverse range of services and products, from office properties in the central U.S. to large-scale farming in Kenya"²⁴.

Calvin Burgess founded the Dominion Group of Companies in 1977, when it was a general contracting firm. In 1986, his business expanded into real estate development in order to pursue privatisation of previous government functions. Since 1986, Dominion has built 3,2 million square feet of public buildings and developed more high-security prisons than any other privately owned company in the United States, with which Burgess made millions (Pearce 2013: 86). Over the years, Burgess further established a company in 1988 to own and operate corporate aircraft, as well as Dominion Farms Limited, a subsidiary of the Dominion Group of companies, carrying out a diversified farming operation in western Kenya.²⁵

The website of Dominion Farms states that when Calvin Burgess first came to the Yala Swamp in 2002, where the investment was to take place, "it was accessible only via all-terrain vehicle. As there was no commerce in the area, neither were there jobs, currency in circulation nor hope for improvement. But the residents were determined to break out of the cycle of poverty associated with their tiny acreages and limited access to markets"²⁶. With his fortune already made, according to Burgess his motivation was by no means high financial gains from farming operations (van Heukelom 2013: 169-170). Rather, his motivation was a religious one. Being 'blessed' with financial capacity, his aim was to "grow rice and save souls" and to exempt a million people across the African continent out of poverty (ibid.: 170-173; Pearce 2013: 85-86).²⁷

Following neoliberal discourses of privatisation, and with a religious motivation as well as important political connections, a Memorandum of Understanding (MoU) was signed in 2003 with the para-statal Lake Basin Development Authority (LBDA), which held the authority over the swamp, for investment and development of the Yala Swamp (van Heukelom 2013:173). According to the MoU, the land was to be leased from the Siaya and Bondo County Councils, as the swamp was classified as 'trust land' since Kenya's independence. Subsequently, van Heukelom states that a further MoU was

²⁴ The Dominion Group. Official website. <<http://www.domgrp.com>>.

²⁵ Dominion Farms. Official website.

<<http://dominion-farms.com/team.html>>; <<http://dominion-farms.com/index.html>>.

²⁶ Dominion Farms. Official website. <<http://dominion-farms.com/history.html>>.

²⁷ See Schubiger (2015) for a detailed description of the investor and his religious motivations.

signed with both County Councils, in which it was agreed upon an area of 6,900 ha for a period of 25 years, with the option to renew the lease for further 20 years (ibid.). However, van Heukelom holds that the actual contract was only signed in 2004, in which the land lease was limited to an area of 3,700 ha, which had already been reclaimed in 1970 (ibid.: 173-174). It remains unclear when and by whom exactly the additional 3,200 hectares were leased. In the end, Dominion Farms ended up with 6,900 ha and in 2004, Dominion Farms commenced with its operations in 2004.

Although the size of 6,900 ha might not seem that large compared to other LSLA, and definitely does not fall under the 200 ha defined by the Land Matrix (see 2.2.), recalling Edelman (2013), the quality of the land has to be taken into consideration as well. Based on the discourse to ensure food security in the region, Calvin Burgess acquired 6,900 of highly fertile wetland, which was a viable resource for surrounding communities. As shall be illustrated in the course of the following chapter, from an emic perspective the Yala Swamp constituted an important cultural landscape ecosystem for local communities. The value of the swamp was not only determined by the fertility of the soil, but by the associated CPR local people could continuously derive from it over many decades, which provided the basis for resilience of livelihoods.

5 Luo Communities and the Yala Swamp

"The swamp and this people is just one, it's life".

This chapter introduces the reader to the local setting in which I conducted my research, namely to Luo communities surrounding the Yala Swamp, and to the Yala Swamp itself. Drawing on the quotation above, this chapter aims to illustrate how the Yala Swamp built a major livelihood basis for local communities in the region. The first part of the chapter (5.1.) provides an overview of livelihoods in the local context of Kadenge sublocation, where this research was conducted, as well as a description of socio-political organisation and how access to land and associated resources is institutionally mediated. The second part (5.2.) describes the Yala Swamp and its value for local people. Defining the Yala Swamp as a vital cultural landscape, I outline how the local population derived benefits from varying uses of the swamp's resources. Finally, part three (5.3.) addresses how access to the swamp was institutionally regulated and its importance with regard to climate variability. The aspects discussed in this chapter are important to comprehend how local people's livelihoods were crucially dependent on the swamp, to further understand how impacts of the acquisition of the swamp are perceived by different people.²⁸

5.1. Luo in western Kenya

Today, Luo people dominate the Kenyan part of the Lake Victoria Basin, which lies in former Nyanza Province in western Kenya (Shipton 2007: 45). Having their origins in the Bahr el Ghazal region of the Sudan, oral records suggest that Luo have been migrating South in small waves and on different routes over the past 450 to 500 years (Ogot 1967: 28, 41). The mythical origins of Luo society take us back to Podho, the forefather of all Luos, who was created by a divine being and settled at Ramogi hill in Uganda (ibid.: 142-143). The legend continues that one of Ramogi's sons, also called Ramogi, went further South into today's Nyanza Province and settled on a hill in Kadimo, which is now known as Ramogi Hill, or Got Ramogi in *Dholuo*, the local language (Berg-

²⁸ Most information in this chapter is derived from participant observation and interviews conducted during my research stay in Kadenge. Descriptions of the area are also based on observations between March and May 2014.

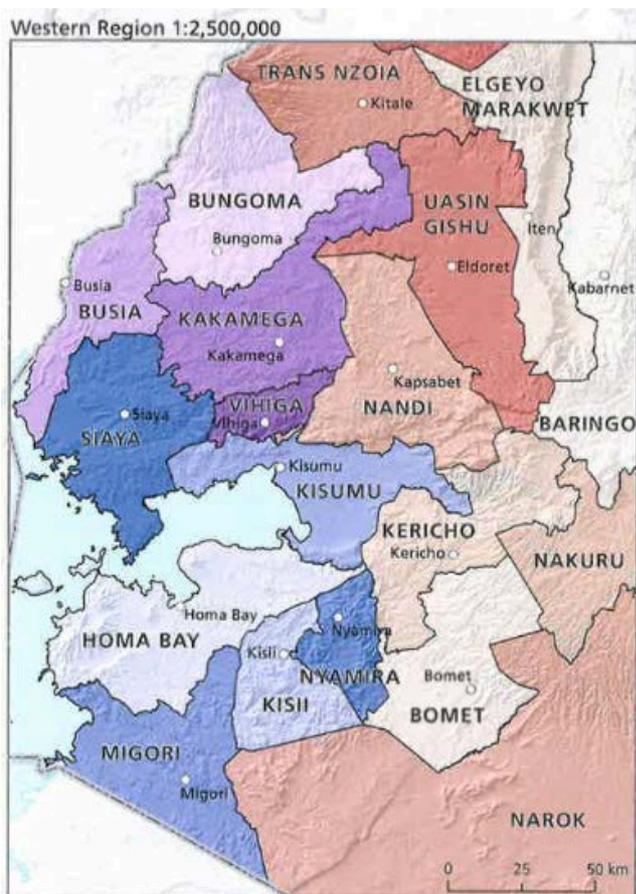
Schlosser 1984: 117). Indeed, Got Ramogi has been claimed to be the place of origin of the people living around the swamp, as this young villager describes:

"Since this time the Got Ramogi, meaning 'Ramogi's Hill', is a holy hill for all Luo people. It is the hill where our founding father fought against our enemies. His sons were Alego, Gem, Samia and Ugenya. They all settled here in Siaya County. Women cultivated the soil while men reared the cattle. Alego was married to Aloo, their sons were Seje and Kadenge. That's the reason why our village is called after the sons of the sons of Ramogi. This is the land of my forefathers."

Therefore, Luo identify with a shared past as descendants of Ramogi (Geissler and Prince 2010: 44). Not far from Got Ramogi lies Kadenge sublocation, the area where this research was conducted.

5.1.1. Life in Kadenge

Kadenge Sublocation is located in South Central Alego location, one of the newer subdivisions of former Alego location. South Central Alego is located in Siaya County,



Map 2: Counties in western Kenya (Wiesmann et al. 2014: 13).

which is a drive of approximately two hours from the provincial capital Kisumu, Kenya's third-largest city following Nairobi and Mombasa. At times a little bit bumpy, the ride from Kisumu to Siaya was typically undertaken by means of the characteristic Kenyan matatu, a privately owned minibus. The ride led over tarmac roads through a rather dry landscape, and past the typically scattered Luo homesteads.

The matatu terminus at the end of the tarmac road is Siaya town, the capital of Siaya County, and counts an urban population of approximately 21,000 (2009 census). From Siaya town, a murram road (dirt road) leads further

west towards Lake Victoria and the Ugandan border. On the ride on a motorbike taxi - locally referred to as 'pickipicki' or 'bodaboda'- towards Kadenge sublocation, cars could rarely be seen. A common picture was people on bicycles and motorbikes, people by foot, sometimes carrying jerry cans or with some livestock. The landscape appeared rather arid at the beginning of the rainy season in March, but turned into a rich green landscape by the end of May.

After twenty minutes on the motorbike, Harambee market, a small market place next to which we lived during the research stay, was reached. Harambee market is the major market place in Kadenge sublocation, and around ten minutes by motorbike from the Yala Swamp and the Dominion Farms headquarter. It consisted of a couple of shops that would sell maize flour, soft drinks, and goods for daily use such as sanitary pads and soap. Most of the shops had electricity and people could charge phones for ten Kenyan Shillings (KSh)²⁹, since most homes lacked electricity. Further, there was a bicycle mechanic, a hairdresser, tailors and three small hotels, which offered meals for lunch and dinner, mostly *ugali*, the local staple food made of maize flour, chapati with beans, and at times also fish. A wooden shelter served as meeting point where young men between approximately 18 and 40 offering motorbike taxis would stay and hang around during the day. Apart from the men and a couple of children hanging around, the market place was rather quiet during the day and became more lively towards the evening, when children passed the market on their way home from school and women filled the place to sell fish and vegetables on the daily market.



Map 3: Siaya (Cohen and Odhiambo 1989: 8).

²⁹ 1 EUR corresponds to roughly 110 KSh and 1.08 USD.

Until after sunset, Harambee market was usually very crowded, with mostly children and men watching TV in some shops, and the loud graining of the posho³⁰ mill in the background.

Most people in Kadenge and the surrounding areas have a small plot for subsistence farming, for which they use the Kiswahili term *shamba*. Commonly, maize and beans are intercropped on the *shamba*. To a lesser extent, a few people rely on fishing and livestock. Although livestock such as cattle, goats, pigs and chicken can be seen, especially reliance on cattle has decreased since the arrival of the investor, a fact that will be thoroughly discussed in chapters 5.2. and 7.1. On the *shambas*, women, men and children could be seen working on the fields during the planting and growing season at the time of research.

According to local people, the subsistence economy has been interwoven with the cash economy for a very long time, and substantially since the 1980s. Cash has become essential for social life, and is needed for school fees for children, bride price, clothes, medical care and transport. However, there is also a strong desire to earn money in order to achieve a lifestyle like people from Europe and America. Subsequently, most people we encountered were also engaged in other activities than subsistence farming. Commercially sold CPR such as fish were complementary to subsistence farming in order to gain income. Whereas older people and women relied more on selling (surplus) crops and vegetables on the market in order to generate income, off-farm activities among younger people included small businesses such as motorbike taxis, barber shops, tailors, or *mpesa* kiosks – a mobile phone-based money transfer, which can be found even in the most rural areas. Permanent off-farm activities mostly include employment as teachers or public servants.

Education plays an important role in the lives of the people in Kadenge. Young people were concerned with earning money by working in shops, with motorbike taxis or other forms of employment, in order to pay high school fees or university fees. Many parents were concerned with earning money to pay their children's fees, and many people in the region view education as the gateway to success in life (cf. Onyango-Ouma 2006).

Running water was not available in the region. People collected water from privately owned boreholes for 5 KSh per jerry can, from the lake and the swamp, or collected

³⁰ In East Africa, posho describes flour made from maize.

rainwater during the rainy season. This water was used for drinking, cooking, washing clothes and dishes, and showering. Electricity was only available in the few shops on Harambee market. Most homesteads were still made in the traditional way, either from clay or cow dung. Roofs are thatched with grass, although some homesteads had corrugated iron roofs. However, there were also some concrete houses, which people refer to as permanent houses, and which indicate a certain social differentiation among the community. Homesteads generally had a big living room, usually with sofas and chairs and a table in the middle, in which guests are welcomed and offered food.

Drawing on the history of western Kenya and the Luo as a labour reserve under British colonial rule, we met many young fathers who had left Kadenge to work in the urban cities of Kisumu, Nairobi and Mombasa in order to gain some income. Siaya had the highest emigration rates in the 1980s (Cohen and Odhiambo 1989: 4), and it seems as if the reality of labour migration and the accompanying village-city span persists until today, as job opportunities for educated people remain scarce in the region. Many of these men had returned to their villages after the post-election violence of 2007-08 (see 4.1.2.).

With regard to religion, most people we met referred to themselves as Christians. Various different churches of European and American origin exist, which over time had been increasingly supplemented by African independent churches (Shipton 2009: 69). Most homesteads had pictures of Jesus or other religious representatives hung up on the wall. However, many Luo also worship their ancestors and other spirits. Although a majority are members of Christian churches, there is a high rate of syncretism in the region. This could be especially observed next to our homestead, where our 'grandmother', who was a healer, had a small hut for her practices. Almost every day, people would come to seek her advice.

Many Luo communities are said to have an "egalitarian ideology", as Shipton (1989: 17) terms it. However, Shipton emphasises elsewhere (1984: 129) that this egalitarian element, which underlies redistributive behaviour of various kinds (1989: 17), does not necessarily imply equality, since these acts of reciprocity do not level out inequalities in wealth, rather than provide a guaranteed minimum (1984: 129.). Therefore, I will refer to these acts of redistribution as *moral economy* in the sense of Scott (1976), who describes the moral economy as a mechanism of reciprocity within which there is a moral obligation of solidarity on the one hand, and the right to subsistence on the other

hand.³¹ This economy underlies redistributive behaviour of various kinds, such as bride wealth, livestock or labour loans, but also loan groups, which are discussed in 8.2.

5.1.2. Socio-Political Organisation

The socio-political organisation of Luo communities has to be analysed against the backdrop of alleged pre-colonial traditional institutions, since basic modes of today's social organisation and property rights regimes build upon these. However, it is important to note that descriptions of Luo organisation are situated in a historical context in which specific interests prevailed. Geissler and Prince (2010: 46) argue that the narrative of 'the Luo' as a bounded social unit with a unified social structure has its origins in the colonial attempt to administratively organise the area along 'tribal' lines. Further, they assert that little evidence exists for any pre-colonial overarching political structure among Luo communities (ibid.:45-47). Rather, political and institutional structures varied from area to area, and groups were characterised by a fluid past. Therefore, it is important to consider that the following description of socio-political organisation might not represent a fixed and concise pre-colonial state. Nevertheless, this description is important in order to understand today's basic modes of social and political organisation, which build upon and are shaped by these recreations of the past (ibid.).

Shipton (1984b: 614ff.) observed that Luo communities in Kenya were organised on the basis of segmentary patrilineages, politically as well as in terms of land-holding.³² Within this system, in theory all groups are similar in structure. The elementary family built the core model, from which it projected itself out into increasingly larger lineage groups as the generations passed (Shipton 1984: 124). The largest unit of inclusiveness constituted the *oganda*, or *piny* when referring to the commonly held territory by the group. *Oganda* is translated as 'nation' (Ocholla-Ayayo 1976: 125) or a 'subtribe', and is defined as the largest social unit (Berg-Schlosser 1984: 115, 124). The first major division of the *oganda* was the *dhoot*, the clan. The *dhoudi* constituted the smallest exogamous units, in which members traced themselves back to a real or fictive common ancestor (Ndisi 1974: 61; Berg-Schlosser 1984: 124). Each *dhoot* related to a territorial

³¹ See Marfurt (2016) for the moral economy in every-day life in Worreh Yeama, Sierra Leone.

³² This form of social and political organisation is commonly found among farming communities in East Africa (Shipton 1984b: 615)

unit called *gweng* (ibid.). The *dhoot* was further divided into *libambni*, that is members of the *dhoot* tracing themselves back to a common ancestor four to seven generations back (Ocholla-Ayayo 1976: 121). The *keyo*, a lineage group, was formed by a number of homesteads, which all trace themselves back to a common great grandfather (Ocholla-Ayayo 1976: 122). The smallest unit, the *joka-wuoro* (ibid.: 193), is the elementary family, which consists of all descendants of a common father (Berg-Schlosser 1984: 124). When conflicts emerged, these were, if possible, resolved locally. If this was not possible, the segmentary lineage system offered built-in ladders to resolve conflicts on a higher level (Shipton 1984: 124).

The *ruoth* was the head of the *oganda* and apart from being a political leader, could also combine mystical and judicial functions (Ocholla-Ayayo 1976: 209; Ndisi 1974: 54; Berg-Schlosser 1984: 126). Depending on the *oganda*, the position of the *ruoth* varied; his authority tended to be broadly diffused (Shipton 1984: 130; Shipton 2009: 88). According to information from the current chief at the time of research, the *ruoth* was primarily considered a community leader. He was to guide the community in moral and cultural matters, and act as an arbitrating body in case of conflicts. Furthermore, in cases of war, the *ruoth* directed and led his people. The *ruoth* closely worked together with the council of elders, which the chief vaguely described as in the past being constituted by elders from different clans. This council of elders appointed the *ruoth* together with the community, based on an assessment of the *ruoth's* values.

In the course of the twentieth century, the colonial state attempted to reformulate identity through pinning people down to a locational and sublocational identity (Cohen and Odhiambo 1989: 28). The colonial administrators seized upon what they identified as the *ogendni*, understanding these as natural units of aggregation through which taxes could be collected and the native population governed (Shipton 2009: 90). In the ensuing period, Nyanza Province was divided into administrative locations based on the names of the *ogendni* (Ogot 1967: 252). For example, former Alego location (now South Central Alego location), where this research took place, was identified as one *oganda*. According to Ndisi (1974: 61), the boundaries of the *ogendni* more or less corresponded with the official location boundaries, whereas Cohen and Odhiambo (1993: 28) stress that these new administrative boundaries were based on presumptive lineage structures. Recalling Geissler and Prince, the desire of the colonial administration to draw boundaries, apart from serving political and administrative reasons, also served

the epistemological need to make things that existed in bounded entities known (2010: 45).

Although this created identity of locations has to be treated with caution because it is a "conscious 'invention of tradition' by the colonial state" (Cohen and Odhiambo 1989: 28) and ignores the fluidity of Luo communities, it is nevertheless important to consider how this partially invented identity is "imagined" by the members who perceive themselves as part of the community (Anderson 1983). In Kadenge, people referred to places and people almost unexceptionally in terms of sublocations and locations. Most commonly, people would speak of where they were from referring to the sublocation or the location, and label themselves as "Alego people", identified by the British as an *oganda* (Ndisi 1974: 61).³³ For example, when a married Luo woman introduced herself, she first referred to her place of birth as Yimbo, another created location identified by the British as alleged *oganda*, and to the place where she cooks (residence/where her husband is from) as Kadenge sublocation. In the creation of a located identity, rather than the automatic result of segmentation, 'the Luo' have indeed become a tribe – Kenya's third-largest – and today's political tensions increase the sense of tribal cohesion (Geissler and Prince 2010: 46; Cohen and Odhiambo 1989: 5).

Further, colonial rule brought an end to the diversity of the functions of the *ruoth* as a traditional political leader. Based on the concept of indirect-rule used throughout the British colonies, chiefs were appointed by the colonial government in order to administer the newly created locations (Berg-Schlosser 1984: 126; Shipton 2009: 90). Chiefs were appointed based on what the British colonial administrators identified as traditional authorities or powerful individuals, with the duty to collect taxes and conscript labour (Shipton 1989: 22; Shipton 2009: 90). Thus, the *ruoth* as chief only acquired unprecedented economic importance under British rule (Shipton 1984). The current chief of South Central Alego location explained that it was especially the collection of tax and his employment by the government, which posed an end to the *ruoth* as community leader in the traditional sense.

³³ Kadenge sublocation was previously located in Alego location; however, Alego location, encompassing a rather large territory (Ndisi 1974: 61), was later divided into further locations. Kadenge sublocation is now located in South Central Alego location.

Today, socio-political organisation incorporates traditional institutions, but is also embedded in a larger, national political context, all transformed in the course of various events such as British colonisation. At the time of research, South Central Alego location had one chief, Kadenge sublocation one assistant chief, and the eight villages within Kadenge sublocation one village elder each. Both the chief and the assistant chief were male Luos, and two of the eight village elders were female. Their functions and how they are embedded in the larger political setting in Kenya are described below.

<p>Republic of Kenya President</p>
<p>Nyanza Province Provincial Commissioner</p>
<p>Siaya County County Government</p>
<p>Boro Division Divisional Officer</p>
<p>South Central Alego location Chief</p>
<p>Kadenge sublocation Assistant Chief</p>
<p>8 villages One village elder per village <i>Gendro, Kanyamaji, Kanyango, Kamlag A, Kamlag B, Nyalula, Oudura, Komall</i></p>

Table 2: Political organisation in Kadenge sublocation embedded in the larger political setting (based on interviews conducted during fieldwork).

The chief as well as the assistant chief are appointed by the government and employed by the County Government of Siaya. When the chief dies or the assistant chief dies or retires, the County Government announces the respective vacancy. Thereupon, a job interview has to be passed before being appointed. Usually, the position of the chief

is a life-long job, since it requires a large amount of historical knowledge, especially concerning local conflicts. However, the chief is in the mediating position between two different parties. Accordingly, after asked what his duties as a chief are, the chief stated that he is “the eyes of the government and a community leader”. This statement shows the ambivalent position of the chief as a local leader on the one hand, and a government representative on the other hand. He perceives this as a “tough job”, since, as in the case of an investment, government and community interests do not necessarily coincide. Furthermore, chiefs are locally often deemed corrupt, because of their affiliation with the government. The assistant chief has similar functions on the level of the sublocation.

Contrary to the chief and the assistant chief, village elders are not appointed by the government. Each village is represented by a village elder, who is appointed by the respective members of the village. Of the eight villages in Kadenge sublocation, six village elders were men and two were women. The village elders referred to themselves as the “eyes and ears of the chief”, since the chief and assistant chief are not able to be permanently present in the eight villages themselves. The village elders locate their main duty in maintaining peace in the villages. One of their main duties is to settle disputes when cattle encroach on farms on which they should not, as well as boundary conflicts concerning farmland.

The village elders meet once a week with the chief and the assistant in the local school. There, they report ongoing issues and conflicts, and report conflicts that they feel lie beyond their capacity to solve. In turn, the chief and the assistant chief also inform the village elders about news from higher political stances. This involves news of investors coming or “visitors”, as was the case with our research. The village elders' duty is to spread this information in their villages. The importance of this local authority became evident in the initial stage of our research. We were told by various people that no one would be willing to let us stay in their homestead, if they had not received the news of visitors coming via chief and village elders. This required passing through various administrative instances from the County Government to the chief (see Table 2).

As noted before, the village elders are not employed by the government. This implicates that they are not paid for their function as elders. Although they state that they do their job for the well-being of the community, a certain discontent prevails because they are not being paid. Being a village elder is a time-consuming job, which one of the village elders was already carrying out for 26 years. Furthermore, few village

elders are engaged in formal wage employment. Although some are included in some small economic engagements such as selling surplus harvest, milk, or paraffin, to a large extent they still rely on subsistence farming. However, not being employed by the government also implicates that they have a better reputation in the community as community representatives than the chief.

In order to become a village elder, several conditions have to be fulfilled. First, a certain "maturity" has to be achieved, meaning that there is a need to be accustomed to Luo culture and practices. Thus, becoming a village elder is only possible after reaching the age of 35, because younger people are not adequately conversant with Luo culture and practices, and therefore would not know how to handle matters. Further, in order to become an elder it is required to be married. This is explained by the fact that the homestead and the field would be neglected if there were no one to take care of these, since being a village elder is a time-consuming job.

However, this condition is subject to flexibility. As indicated above, women can also become village elders. The one female village elder was a widow, therefore would theoretically not be able to become a village elder. However, she had what she calls "straightforward children". These were able to take over the duties in and around the homestead when she was occupied with tasks relating to her job as a village elder, which is why she could take over the position of a former elder.

To conclude, the chief, the assistant chief and the village elders are the nodal point between the established political organisation on the local level and the administrative organisation on a regional and national level. However, the chief definitely plays the most important role, since he is the one who acts on behalf of the communities vis-à-vis third parties, an on behalf of the government vis-à-vis local communities.

5.1.3. Land Use, Land Rights and Institutions Governing Access to Land

In Kadenge, land tenure is neither only individual, nor only communal. Much more, it is characterised by overlapping claims and seasonal oscillation. Before the implementation of the Swynnerton plan, land on which crops were grown belonged to an individual or a household during the growing season, because they had tilled, planted and weeded it. The same land became communal land accessible to members of larger lineage units when the stubble provided fodder for grazing livestock (Shipton 2009: 71). The village elders stated that in the "olden days" it was possible to graze the cattle anywhere

outside the homestead within the boundaries of a specific larger unit. Furthermore, Luo applied a mini-max strategy in order to guarantee a minimum harvest, since they have long deemed it wise to diversify their livelihood strategies (ibid.: 118-120).³⁴ Therefore, before demarcation of land, diversification as individuals or households took place in terms of soil types and crops (ibid.). These fragmented plots were perceived as risk-spreading strategy and an important resilience strategy. Furthermore, Shipton points out that it helped to add a certain variety of foods in the diet (ibid.).

However, a profound change concerning landholding was the nationwide registration of land to individuals with the Swynnerton Plan in 1954. When the implementation of the Swynnerton Plan began, Luo were highly reluctant towards the idea of registration and consolidation of their land. An older man remembers:

"Yes there was something people did not accept, they [colonial government] wanted something called 'land consolidation', meaning writing lands all over. Then they could line people up, then they gave you small pieces equally. Then the rest was to belong to the government."

Luo sentiment against the idea of titling land was largely related to their complex system of landholding (Shipton 2009: 132-134). When land was titled as private property, access rights required through group belonging or work became challenged by rights acquired through capital alone (ibid.).

In Kadenge, land is primarily used for crop cultivation and livestock husbandry. Land use for these two activities was adapted to the seasons. The climate in the area is characterised by the rainy season spanning from the beginning of March to the end of May, and the dry season from June to February, with short rains in October and November. Land used for crop cultivation is to large extent cultivated with maize and beans. Preparation of the fields takes place in January and/or February, and planting starts in March with the first rains. Maize and beans are intercropped, and the seeds are planted in holes with a distance of approximately 10cm. Weeding, which is a very time-consuming task, starts in April. Because it is such a time-consuming task, people help each other with weeding. In the case of the woman we stayed with, her daughter and her nephew assisted her. Crops are harvested in August, and the months before August are

³⁴ Lipton (1982) defines mini-max strategies as a strategy that aims at maximising the security of a minimum yield. Planting different crops on different soil types might not produce the highest yield, yet some harvest is guaranteed in case of droughts or floods.

said to be the hungry months, because people run out of stock from the previous year. After harvest, cattle are brought to graze on the harvested fields until land preparation starts again. However, since the individualisation of land, this grazing land is not necessarily accessible to other people of the community. A village elder explained:

“It is true that long ago cows used to graze as it has been said here. But now that land has been demarcated a person would not allow even his brother who has used up his own two pieces of land for cultivation to encroach on his land and use it for grazing cows. If it were me I wouldn’t allow that. And that is what brings about conflict. And this conflict came about when the government came and demarcated the land and allocated it to every individual”.

Generally, two further types of land can be distinguished that are used for grazing. Every homestead consists of some bush land – often adjoining the farmland – or small pastures in front of the homestead that are also used for grazing animals, especially smaller ones such as goats, chicken, and pigs. Apart from the above mentioned seasonally oscillating communal grazing land, which seems to have largely disappeared, there were grazing lands that were communally held throughout the varying seasons. This communal grazing land is held by a lineage group, within which every member of the community holds usufruct rights for grazing (Wilemski 1977: 77). This consisted of land that was not cultivated with crops and not identified by exact ownership, such as road sides, paths, and land along rivers and lakes (ibid.: 129). However, Wilemski already observed in the 1970s that these communal grazing lands were becoming scarce due to increasing crop cultivation for a growing population (ibid.).

The chief told us that with the demarcation of land, the communities, together with the village elders and the chief, decided to set some land aside especially for grazing. It was agreed that nobody should acquire that land or cultivate it with crops. The land set aside especially includes land surrounding Lake Kanyaboli, where there is also a salt lick³⁵ for the cattle. However, he also complained that due to the growing population and lack of land people are starting to cultivate this land as well.

The Yala Swamp constituted an important communally owned resource. It is perceived that the swamp provided a solution for problems such as a growing population, growing scarcity of grazing land, as well as for adapting to climate

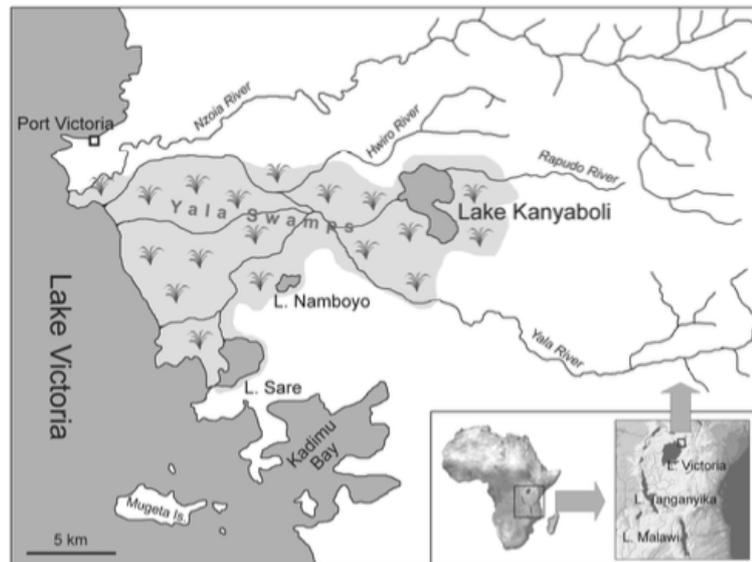
³⁵ This was quite a large piece of land adjacent to the swamp and Lake Kanyaboli, which provided the cattle with nutrients and minerals.

variability. The next chapter addresses ecological specificities of the Yala Swamp, how local people directly and indirectly benefited from the swamp, and how access to this resource was regulated.

5.2. The Yala Swamp

The Yala River ends downstream in an extensive floodplain known as the Yala Swamp (van Heukelom 2013: 159). The Yala Swamp encompasses an area of 17,500 ha and is bordered by the Nzoia River to the North and the Yala River to the South and lies along the northern shores of Lake Victoria (Abila et al. 2004). The swamp is located in both Siaya and Busia counties, whereas Siaya county lies in Nyanza province and Busia county in Western province (Businge 2012). Three lakes are situated within the swamp, Lake Namboyo, Lake Sare, and

Lake Kanyaboli, whereas the latter constitutes the largest of the three. As can be seen on map 4, Lake Kanyaboli is separated from Lake Victoria by the Yala Swamp, which forms a massive papyrus swamp (ibid.). The papyrus acts as a hydrological buffer



Map 4: The Yala Swamp (Abila 2011: 458).

zone, which means that the swamp is like a sponge during

the wet seasons, as it catches up the inflowing waters. Furthermore, it sustains the flow during the dry season (Harper and Mavuti 1996: 229). One main function of the Yala Swamp is its filtering of pollutants and silt from Nzoia and Yala Rivers that finally flow into Lake Victoria. Due to this filtering effect, the water that flows into Lake Victoria is exceptionally clear (Businge 2012: 89; Schuyt 2005: 182). The Yala Swamp also inhabits various endangered species and the rare sitatunga antelope, birds, wild animals, and fish fish (Owiyo et al. 2014: 85; Abila 2002: 89; Schuyt 2005: 183).

Wetlands are said to be among the most productive ecosystems (Harper and Mavuti 1996: 229). Their importance is reflected in the Ramsar Convention of 1971, which is concerned with the protection of wetlands, because they "provide essential services and

supply all our fresh water [but] continue to be degraded and converted to other uses"³⁶. The Ramsar Convention uses a relatively broad definition of wetlands, which illustrates the various types of vegetation wetlands encompass, the commonality lying in the characterisation of permanently or temporarily waterlogged soils (Harper and Mavuti 1996). The Yala Swamp can be classified as a typical valley swamp (Kaufman, Chapman, and Chapman 1996), however, is not indicated as a Ramsar Site by the Kenyan government (FIAN 2010: 25).³⁷ However, as Haller and colleagues point out (2010) concerning African floodplains, these are rarely 'pure nature', but often constitute cultural landscape ecosystems, and their complexity can be, among other things, traced back to human use of these wetlands.

Because it does not have protected status, discussions about the reclamation potential of the Yala Swamp have continuously been going on since the beginning of the 20th century. Serious interest in converting the swamp into agricultural potential came up in the 1950s by the colonial government (van Heukelom 2013: 162ff.). Outcomes of surveys suggested that the swamp had high productive potential and would offer developmental potential by means of reclamation (ibid.; Owiyo et al.: 2014: 83). The independent Kenyan government later initiated wetland reclamation for agricultural purposes (Schuyt 2005: 182). In the course of reclamation discussions the swamp was divided into three areas: Area I constituted an area of 2,300ha and was reclaimed by 1970, Area II and Area III were to be reclaimed in a phased approach (van Heukelom 2013: 165).

After independence, the Yala Swamp was classified as 'trust land'; land held in trust by the County councils on behalf of local communities, and which used to be declared as *native reserves* under colonial rule (see 4.1.3).³⁸ When discussions about reclamation of the area were taking place, local communities were already using the swamp's resources for subsistence. A village elder stated: "I saw the swamp filled with water when I was still a child. That was in the year 1954. And it was filled with crops that people grew within it". Other statements concerning usage of the swamp refer to great-grandparents

³⁶ Official website of the secretariat for the Convention on Wetlands.

<<http://www.ramsar.org/about/the-ramsar-convention-and-its-mission>>.

³⁷ Kenya ratified the Ramsar Convention in 1990, and it lies in the country's competence to decide which areas are to be protected by the Ramsar framework (FIAN 2010: 25).

³⁸ Schubiger (2015) provides a discussion of the classification of the Yala Swamp and its implications.

already using the swamp, which suggests that people might already have benefitted from the swamp's resources since pre-colonial times. Owala further refers to use by adjacent communities for "time immemorial" (2010: 17). Despite local use for a very long time, Schubiger (2015) points out that legally, the resource was never classified as belonging to local communities in the sense of *ownership*.

By 1970, the 2,300ha of Area I had been reclaimed. Reclamation included major transformations of the ecosystem such as drainage of parts of the swamp, the construction of a diversion canal and protection dyke on River Yala; a feeder canal from Yala River to Lake Kanyaboli, and a retention dyke at Lake Kanyaboli (van Heukelom 2013: 164; Owiyo et al. 2014: 83). However, the reclamation project was repeatedly lacking funding, which is why, after lying idle for several years, the para-statal Lake Basin Development Authority (LBDA) moved into Area I on behalf of the Kenyan government with the aim to boost food security (ibid.). The LBDA commenced with cultivation of the 2,300 in the 1980s, and according to local people, the LBDA was producing crops together with the community. Generally, it is perceived that the drainage by the government and cooperation with the LBDA improved livelihoods. This indicates that local people were able to pick up these changes and even profit from them. The following subchapter aims to exemplify that the Yala Swamp constituted a vital cultural landscape ecosystem.

5.2.1. The Dependence of Local People on the Swamp

"Naturally you know wetlands, apart from doing a lot to the environment, they do a lot to the communities because that's where people get their food, fish, people get vegetables, building materials et al."

Departing from this quotation by the county representative, I will illustrate the dependency of local people on the Yala Swamp. In addition to the highly valuable ecological and hydrological functions of the Yala wetland, it also performed as a major source of livelihoods for surrounding communities. Dutch consultancy company ILACO, which carried out the 'Yala Swamp Investigation Project' in the mid-70s, found that "the areas north and east of the Swamp are densely populated [and] the larger islands in the

Swamp are even more densely populated than the area north of it" (ILACO 1975: 7, cited in van Heukelom 2013: 166).³⁹

Although it is difficult to estimate the total number of people who directly benefited from the swamp, according to the County Representative of Siaya, the swamp supported over 15,000 people in Siaya County. Kinaro, however, suggests that the population in the villages adjacent to the wetland encompasses about 35,000 people, which depended on the swamp as a natural resource (2008: 9).⁴⁰ Despite an uncertainty of exact numbers, it is clear that the swamp directly supported an amount of people lying in a five-digit range. Abila (2002: 90) distinguishes three areas encompassing the swamp⁴¹, in which local people made use of the swamp's resources:

1. The south-western part of the swamp that includes Yimbo locations;
2. The Yala Swamp complex and Lake Kanyaboli area in South Central Alego, where the 2,300 ha reclaimed by the LBDA lie;
3. The Sumba-Usonga area that borders the northern margins of the swamp.

Our research took place in The Yala Swamp complex and Lake Kanyaboli area. The Yimbo locations on the south-western part of the swamp are also heavily affected by the investment. The Sumba-Usonga area is not yet directly affected, since Dominion Farms has not yet started to use the reclaimed land on the northern side of the swamp.

The Yala Swamp provides a variety of resources such as water, papyrus, grass, and fertile soil due to the ecological conditions in the swamp. Consequently, utilisation of the swamp by local communities included a range of activities and constituted an important cultural landscape. Surveys carried out by different scholars in and around the swamp (Abila 2002; Kairu 2001; Mwaura et al. 2004; Kinaro 2008; Schuyt 2005) illustrate high dependence ratios on the swamp, which implicates that local communities adjacent to the swamp were sometimes entirely dependent on the swamp's resources (Schuyt 2005:

³⁹ The population density in Siaya County was estimated to be 385 persons per square kilometre in 2009 (Kenya National Bureau of Statistics 2009).

⁴⁰ Pearce (2013: 89) estimates a population of 700,000 living within 15 kilometres of the swamp, which in one way or the other benefitted from the swamp and its resources. However, this would result in an extremely high population density and is rather unlikely.

⁴¹ These include East Yimbo and North Yimbo locations as well as Kadenge sublocation in South Central Alego location, Bar Olengo in South Alego location, as well as Nyadorera A and B, and Sumba sublocations in Usonga location.

183). On the following pages, I outline how the Yala Swamp fulfilled two important functions for local people. The commonly used swamp acted as a subsistence resource on the one hand, while at the same time providing resources to meet monetary needs. In this way, the swamp contributed to a large extent to the resilience capacity of people in Kadenge and beyond. "You see, most people from Siaya County were dependant on this land", a man told us. This shall be illustrated by recounting how the swamp and its resources were consumed directly, used as production materials, or sold in order to generate cash.

5.2.2. Land Use in the Yala Swamp

One of the major uses of the Yala Swamp was for agriculture purposes. Local people used to cultivate grain such as maize, sorghum and millet alongside with beans, cassava, sweet potatoes, kales, and tomatoes. Crops were grown within the swamp as well as on a margin adjacent to the wetland, which provided arable land for agriculture activities. Furthermore, local people were also cultivating crops on the 2,300 ha reclaimed by the LBDA. As described above, drainage of parts of the swamp in the 1970's by government was certainly of importance in making the land arable. However, as also shown, the people had already been cultivating the swamp before reclamation took place and on parts that were not reclaimed. As technology was restricted, this was done by draining the wetlands or by exploiting the rich soils with slash and burn methods. A local man describes how the swampland became suitable for cultivation by slashing and burning the papyrus:

"So this papyrus you do it on your own. So we just start slashing, slashing and slashing and slashing, and burning the land. So people were committed there. So we were just committed, we kept on working and working and working, and finally it became? A land. So now we are cultivating it. So we are enjoying it."

When the land was cleared and ready for cultivation, due to the fertile soils, it provided arable land for agriculture activities during the whole year. This was opposed to land further away from the swamp, which could only be cultivated on a seasonal basis and was dependent on precipitation rates (Mwaura et al. 2004; Wanjohi et al. 2011). People repeatedly emphasised that apart from providing physical space for cultivation, the quality of the land and the soil in the swamp was essential. A commonly used rhetoric was that in the swamp, crops would grow much faster than on land further away, which was said to be "hot". The chief said that "it's a very fertile land, if you

cultivate it tomorrow, the following day you see this coming up. It is not like other land that takes some days". This statement illustrates the value of the quality of the swamp to people who grew crops in the swamp. The importance of the quality becomes even more comprehensible when they explain that no manure is needed in the swamp in contrast to land further away, on which crops "don't do that well" without adding manure to the soil. Not being dependent on precipitation rates and not having to spend time and eventually money to manure the soil was highly valued by many local people, often saying about the swamp that "I like this land more here". A local woman stated that she was able to harvest up to twenty sacks of maize from the swamp.

A majority of people claim to have had a small plot for cultivation in the swamp before Dominion reclaimed the land. If they did not have a field themselves, then certainly a relative did. Although the plots were small and people did not consider themselves rich, the area is said to at least have been food-sufficient (cf. Owala 2010: 17). Local people as well as a Ministry Official emphasised that the area around the swamp used to be a food reserve for Siaya County. Until in the 1990s, people would walk from Siaya town to the swamp in order to buy cereals, which were grown in the swamp.



The northern side of the Yala Swamp cultivated with crops, Got Ramogi in the background (Picture taken by the author, 2014).

The significance of the swamp for agriculture and food production at the latest becomes obvious when visiting the northern side of the swamp, where Dominion had not yet put the reclaimed land into use at the time of research. There, vast amounts of the swampland are cultivated with maize and other crops, giving an idea of how the southern shore must have looked like before Dominion's arrival.

For many Luo we spoke to, the most strongly emphasised use of the wetland was its function as a large grazing land. "As from ancient time that land was a grazing field, a very big one", the chief enthused. While papyrus and reeds dominate in the shallows of the swamp, various grasses grow in the periphery (Gwengi 2011: 5). This provided an ideal grazing area for livestock. Studies carried out before the investment suggest that a majority of the people with cattle was entirely dependent on the wetland for grazing, providing an area that handled up to 1,800 cattle herds daily (Mwaura et al. 2004).

Cattle has a high traditional value among the Luo and still fulfils some social, cultural and ritual functions, such as bride price payments. However, their value is not limited to these aspects. One elderly man stated that cattle used to constitute the main food product, because milk, meat, and blood can be derived from the animal. The chief noted that if you have cattle, "you get your livelihood easier". He explained that people who own cattle get milk for porridge, as well as meat. Milk is considered important for nutrition because of its high protein content (Wilemski 1977: 134). The fact that the number of cattle could easily be accumulated made people "more confident" to obtain their livelihoods. Another factor why it facilitates livelihood is the use of oxen as draught power to plough the fields.

Additionally to being a food reserve, a similar narrative prevails the role of the swamp for milk production. It was commonly agreed that the swamp sustained "the whole of Boro and Siaya" with milk. Of course, it was not the swamp *per se*, but the fact that it provided such a large area for the cattle to graze. Women reported of milk they sold to the LBDA or to a man in Boro. Cohen and Odhiambo (1989: 75-77) point out that a large cattle market had established in the region over time, especially as an attempt to rebuild wealth after the epizootics between 1880 and 1920.⁴² Cattle exchange served as a means of private accumulation and a way of alleviating famine, and therefore as

⁴² People in Kadenge especially referred to the tsetse fly, due to which much of their cattle died at the beginning of the last century.

important asset with regard to resilience capacity. Specific cattle markets, such as one established in Boro, still existed at the time of research in 2014. Further benefits derived from cattle and its role for resilience of livelihoods are discussed with regard to the monetary benefits derived from the swamp in 5.2.3.

Investigating use patterns and the economic value of the Yala Swamp, Romulus Abila (2002) identifies fish to be the most important wetland product with the greatest socio-economic value. We only observed fishing activities a few times; however, this might be because, according to information from the assistant chief, the Ministry of Fisheries restricted access to the lake in 2014 due to overexploitation. Restriction was implemented in order to enable reproduction of the fish.

During our research, it was especially older people in Kadenge who mentioned fishing in the swamp and the satellite lakes. The fish in Lake Kanyaboli are said to be particularly unique because they constitute species that used to be found prior to the introduction of the Nile Perch in Lake Victoria during colonial times, which caused a rapid decline in many fish species (Schuyt 2005: 181). According to the village elders, women would set basket traps among the papyrus reeds to catch fish. By walking through the grass the fish would be chased into the trap. Then, the traps were pulled out and new basket traps were set.

Furthermore, local people were experienced in deriving benefits from the water in spite of the seasonal variation of water levels. For example, the chief stated that during the rainy season from March to May, water levels were very high. During this time, fishing activities reached its peak. We were commonly told that it was possible to set up traps just in front of the homestead, and the fish “would just come”. Another local man told us that they also used to fish in the canals in the swamp, which was built in the course of reclamation of Area I in 1970, which are now fenced-off by the company. According to the chief, until 2002, such a large amount of fish could be caught, so that sacks of maize could be filled with fish catches and “even if you transport them with the bicycle you get tired”.

Fish numbers had been on decline already before the arrival of the investor, but according to the chief, had drastically decreased since Dominion Farms started its operation. An elderly man stated that earlier, “one catch was enough to sustain my family”, but he does not go fishing anymore because costs (time) and benefits (catches)

do not pay out. The village elders complained that people had been starting to use nets with small mesh sizes that catch fingerlings and eggs. Effectively, we were able to observe the use of mosquito nets as fishing tool during research.

The swamp also constituted the most important resource for collecting building materials. Papyrus and grass were collected by women and used as roofing materials, which are still often seen in the area among the few iron roofs. The wetland also provides clay, out of which traditional Luo homesteads are built (Abila 2002: 91). Furthermore, women collected papyrus reeds to make baskets, which they would sell on local markets⁴³. A number of other products are also made from papyrus, such as mats and seats (Abila 2002:91). Fuel wood was also collected from within the swamp.

Moreover, wetlands are an important source of water collection (Schuyt 2005: 178). Schuyt observes that the communities surrounding the swamp are entirely dependent on water from the swamp for domestic purposes. Albeit getting water from boreholes is quite common, many people would ride down to the swamp from Harambee market with jerry cans to collect water from the swamp and Lake Kanyaboli, since boreholes are privately owned and 5 KSh have to be paid per filled jerry can.

5.2.3. Monetary Income from the Yala Swamp

The first indication that benefits from the swamp went beyond subsistence needs were various statements that the swamp had provided people for their upkeep. A village elder recalls:

"We'd use its waters for our benefit to allow our children to go to school, for our upkeep together with providing our food. It provided for our upkeep because it had fish and we'd catch the fish and sell them and get income and provide for the schooling of our children".

This statement corresponds with the previous quotation by the chief, that sacs of fish could be caught in the rainy season. However, generation of monetary income was not restricted to sales of fish; many people made similar statements with regard to their education or education of their children in terms of crops and cattle. Crops were handled in similar way as fish: when people had sufficient food for their own subsistence, they would keep three quarters of the harvest and sell the surplus quarter on local markets in order to meet other livelihood needs that were considered

⁴³ The Yala Time Bomb. <<https://www.youtube.com/watch?v=P50l0Y10YrE>> (3:15).

important. Further, the milk of cattle was also used for this purpose. A local woman told us that the income she derived from selling surplus milk to the LBDA and to Boro was used to pay school fees of her children and buy food. Therefore, land and water as forms of natural capital (2.5.) have wide implications: they constitute basic livelihood assets from which people produce their food and earn their living.

Whereas the commercial use of fish, crops, and milk generated income for immediate needs, cattle itself was especially important in terms of future needs. Apart from delivering milk and meat, cattle also served as an asset to generate monetary income to pay school fees:

"My education, my money for education came from the swamp because we had some livestock that were grazing within the swamp, we could sell some, for paying school fees and college fees."

Here, it becomes clear that livestock is a useful economic investment and constitutes a special kind of property (cf. Ferguson 1990). It is insofar distinct from the income generated from the sale of fish, milk and crops in that it not only supports current consumption. Rather, cattle also serve as a form of wealth in order to meet future expected and unexpected needs (Doran et al. 1979, cited in Ouma 2013: 13). Since there is no possibility of formal insurances for risk management (Ouma 2003: 14), cattle and other livestock functions as a form of banking. Schuyt observes "the first animal bought is usually a chicken as it is the cheapest animal, and money is saved from selling eggs and chicks. When enough money is saved, a goat is bought and eventually a cow from which people may send their children to school" (2005: 183). Traditionally there has been a certain value hierarchy, within which Luo men tried to convert grain to small livestock, small to big livestock, which was necessary for marriage and therefore for building a family (Shipton 2007: 55ff.). Conversions in the opposite way were considered emergency measures; this served as an essential resilience function.

When local people, especially men, were talking about cattle, emphasis was often put on the number of cattle they owned or used to own. Wilemski (1977: 127) also observed that Luo put an emphasis on quantity rather than on quality of cattle. The emphasis on the quantity further stresses the importance of cattle as a store, and the incline to invest obtained money in cattle.

Furthermore, the swamp proved to be an important support to buffer negative effects of male labour migration. Luo men often emigrate to urban Kenyan cities in order to

work, because jobs in the region for educated people are scarce. One woman, whose husband is working outside the region for over 20 years, told us how she managed to get through with her nine children. On the one hand, her husband sent her remittances. However, she added that “of course I got help from the swamp. I could sell vegetables and milk for survival”. In this way, the swamp provided a resource through which cash shortages could be offset by selling surpluses derived from the swamp.

As Haller observed in Cameroon, increasing subject to monetisation of social relations (venality), which was a consequence of colonisation and the introduction of money for forced tax payments, coupled with the necessity for cash and increasing desire for cash, led to a situation in which local people attributed more value to immediate cash generation. As a consequence, the future discount rate of the resource was high, which led to its depletion and food-insecurity. Cohen and Odhiambo (1989: 62) similarly argue that monetisation and sales of surpluses lead to greater vulnerability, because surpluses are sold when grain is abundant and prices are low, whereas investing in food will be during shortages when prices are high.

I argue that this was not the case with the Yala Swamp. The case of the Yala Swamp illustrates how, additionally to providing subsistence, this specific cultural landscape ecosystem provided a backup for covering monetary needs, without leading to depletion of the resource. Moreover, it provided a “rightful share” (Ferguson 2015: 20) to the people of Alego, who had been using the swamp for a long time. This is an adjustment that was crucial for resilience capacity of local people, as will be shown with regard to impacts of the land deal (see chapter 7).

5.2.4. Climate Variability

Access to the swamp was also especially important concerning agricultural activities and grazing with concerning climate variability. As mentioned above, due to its fertility, the wetland provided arable land for agricultural activities during the whole year, as opposed to land further away from the swamp, which was only cultivated seasonally. This quality of the swamp was especially important for farming activities during droughts, as a villager states⁴⁴, because the wetland was not dependent on precipitation.

A recurring problem was that during droughts, very little pasture was available (Wilemski 1977: 132). However, many people perceive that the swamp provided a

⁴⁴ Projects for Peace Dominion Farms. <<https://www.youtube.com/watch?v=DrITMEcOY30>> (2:12).

solution to the problem of scarce pastures. Furthermore, the swamp was also essential for more subtle climate variability, such as a prolonged dry seasons and shorter precipitations. In such situations, grazing in the wetland proved to be essential (Kairu 2001: 120). This was of special importance because cattle pastures were becoming scarce due to the increasing population. Moreover, in cases of bad harvest or other hazards, cattle used to be exchanged for grain and later also for cash (Wilemski 1977: 133). In serious droughts, apart from children, cattle are most affected because of the disappearance of fodder (Cohen and Odhiambo 1989: 62). Therefore, the pasture in the Yala Swamp, which was not majorly affected by droughts or other hazards, provided a major source of resilience for impacts of climate variability.

5.3. Access to the Swamp

Recalling Cousins and Scoones, "livelihood strategies are institutionally and organisationally mediated, influencing the vulnerability or robustness of livelihood strategies" (2010: 42). Thus, the swamp in itself does not contribute to a robust livelihood; the possibilities of accessing the swamp and benefiting from its resources have to be considered in order to assess resilience capacities. As one young man summarised, "the swamp was no man's land, everybody used it". Despite giving a first impression of an open-access situation, this was not the case. It is likely that he referred to "everybody", because the boundary of the households and individuals with rights to benefit from resource access were defined on the basis of membership to a very large group, the *oganda*.

As noted above, access to resources among Luo communities was traditionally organised on the basis of lineage units. Interviews carried out suggest that access to the swamp was also organised on the basis of lineages. While commonly stating that everyone could use the swamp, people remembered that there had been one dispute concerning use of the swamp. This is recounted as a boundary conflict with the people of Yimbo, a presumed lineage group on the other side of the swamp. Locally labelled the 'Alego side' and the 'Yimbo side', these two different communities on different sides of the swamp were primarily using the southern part of the swamp. Therefore, no individual household held exclusive rights to the swamp, but access to the swamp was limited to people belonging to a certain community, Alego or Yimbo. According to the chief, in Kadenge sublocation on the Alego side, it was especially, but not only, the

villages adjacent to the swamp (Gendro, Kanyamaji and Kanyango) that were using it for cultivation, fishing, and grazing. These were the villages that depended on the swamp to a large extent.

As outlined above, the land in the swamp and associated resources were used for various purposes. Water and papyrus in the swamp were accessed on a communal basis. However, basket traps, fish catches, and the collected papyrus were privately owned after 'harvested'. The large grazing land within the swamp was communally accessed throughout the year. Land within and adjacent to the swamp, on which crops were planted and grown, were privately owned by individuals or families. In the memory of an older women living in Kadenge, people owned little plots depending on their ability to cut the papyrus and drain the water. A prevailing narrative is that those people who put their effort in the land have the right to benefit from the harvest.



Map 5: Location of Alego and Yimbo in Siaya County (Evans-Pritchard 1949: 26 in Geissler and Prince 2010: 39)

However, these people did not only have the right to benefit from the harvest, but because their “effort and sweat” was in the land, they could also transfer their plot of land to a relative in case they did not need or want to cultivate it anymore. The chief first had to be notified, and then the relative could immediately take over the land. This was one way how land in the swamp was redistributed among community members. Therefore, distribution of land within specific group boundaries occurred on a local level. Sometimes, however, people would just abandon their plot after harvest without

notifying the chief. In this case, the redistributive power went up to the chief, who had an important function concerning redistribution of land. The chief had the authority to

redistribute the abandoned land, which he would give to more vulnerable people like widows, for whom it was generally harder to acquire some land.

Furthermore, it was also possible to 'sell' land to people from outside Alego. Land was not sold for cash, as the older woman explained, but exchanged for cattle – at least until the 1980s. Since there was an awareness that the land must be given back, it was not 'overcharged'. Nevertheless, sales of land tried to be prevented, because it was harder to reclaim such land, if interest in use came up again. Therefore, people tried to keep the land within the lineage, because it was easier to reclaim if interest in use came up again. In case of conflicts concerning land (re)distribution and boundaries of farmland, the chief had an arbitrating position. Conflicts could be taken further to the District Commissioner; however, we were told by a woman that this was rarely the case.

5.4. Discussion

This chapter has shown that the Yala Swamp constitutes a cultural landscape ecosystem, which consists of various CPR such as pasture, fisheries, papyrus and water. Figure 2 summarises how access to the Yala Swamp contributes to resilience of local livelihoods. Although the institutional regulations do not fully comply with all eight principles of robust CPR institutions identified by Ostrom (see 2.4.), they nevertheless rather resemble CPR institutions than private property institutions. Especially land, the use of which resembles private property regimes, is institutionally mediated and interlinked with CPR and CPR institutions, as the redistributive function of the chief illustrates. This institutional arrangement also secured access to land for more vulnerable people in times of need. The various activities carried out in the swamp, by combining common and private property systems, built the major source of livelihoods, and subsistence as well as cash needs could be covered through access to the swamp based on membership to Alego. The combination of different activities indicates a high diversification of livelihood strategies, as the Yala Swamp provided vital resources for subsistence, but it was also essential for income generation and in order to offset (cash) shortages. Furthermore, because the CPR built the major source of livelihoods, discount rates of the distant future were low, as activities did not take people away from the CPR. Although the resource had been nationalised through its classification as 'trust land' after independence, the state and planned development projects were largely absent, which enabled a continuous use of the swamp on a local level. Haller (2013) describes this

paradox situation of the presence-absence of a state, in which the state claims to control a resource, while simultaneously being absent with regard to its management. Therefore, the swamp contributed to a large extent to resilience of local communities, which directly benefited from the swamp's resources.

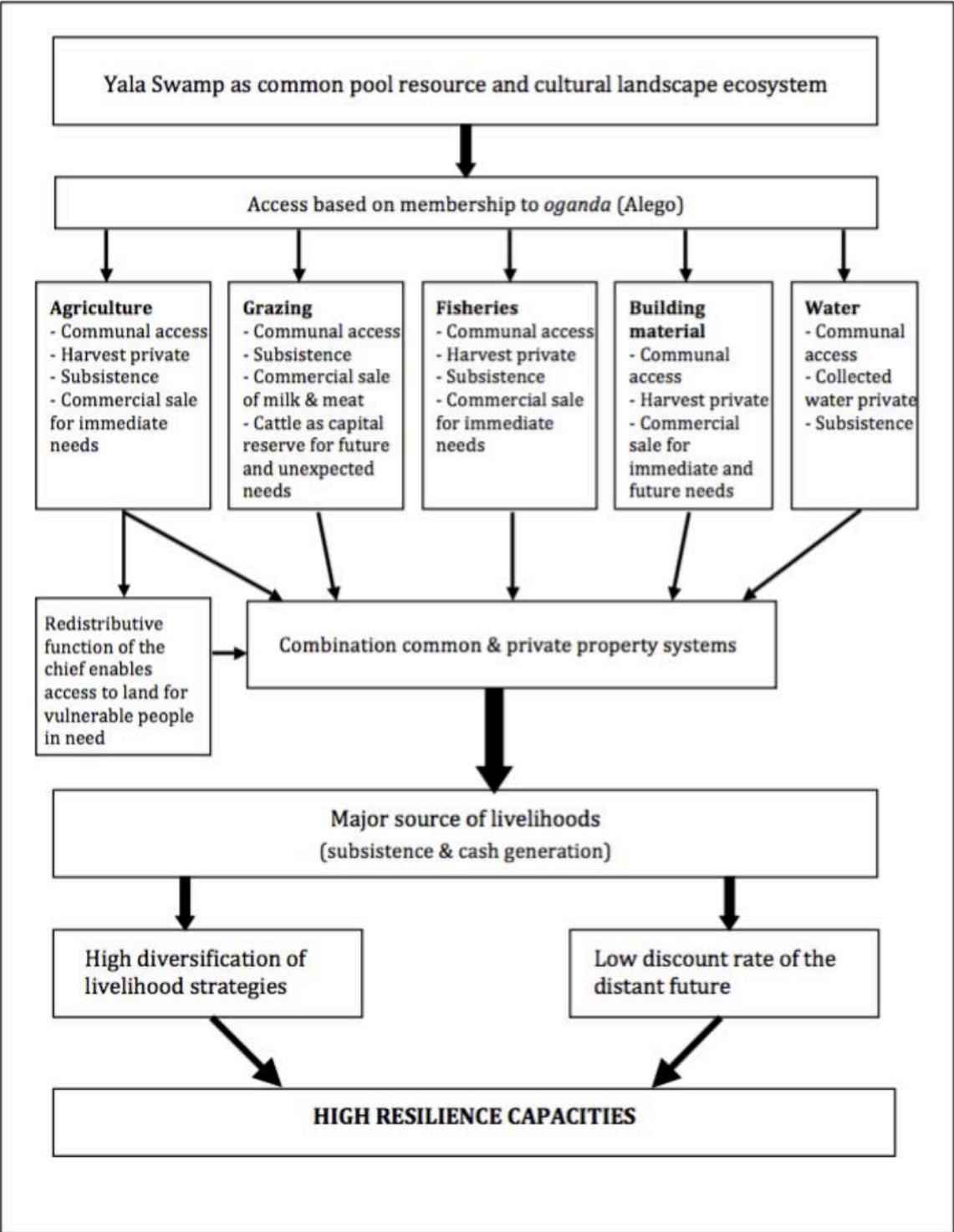


Figure 2: Contribution of the Yala Swamp and associated CPR to resilience of local livelihoods. Drawn by the author.

Drawing back on Ensminger's model of institutional change (see 2.4.), various political, economic, and social changes have transformed the institutional setting from common and local property to state property long before Dominion Farms arrived in the area. Powers and duties of the chief increased with colonisation and appointment as governmental representative, whereas the powers of the village elders, who used to make decisions together with the *ruoth*, have decreased. With the arrival of Dominion Farms a large part of the swamp was *de facto* privatised, changing not only possibilities to access the swamp, but also the institutional setting and the power relations described in this chapter. The remaining chapters elaborate on how the land deal and these accompanying changes are perceived by different people. Before discussing emic perceptions of impacts of the land deal, as well as strategies to cope with the resource loss, the next chapter describes why local people welcomed the investor with hope.

6 Implementation of the Project

The following chapter outlines how the arrival of the investor and implementation of the project was perceived by local actors. Before elaborating on the impacts of the project, it is necessary to point out how Burgess' approach to the community is perceived, in order to understand why he was initially welcomed in the region and why they were willing to entrust parts of a resource that was essential for their livelihoods to a foreign investor.

Approximately twelve years lie between the arrival of the Dominion Farms project in 2002 and our research in 2014. Consequently, in order to sketch the way Dominion Farms approached the community and how the project was implemented, we asked various local people to recall memories from when Dominion Farms first arrived in the area. Many people were not around at the time of the first arrival of Burgess, however, all people we talked with heard of the meeting from relatives or other community members. Furthermore, most people got in touch with Burgess or other representatives of Dominion Farms in the initial stage at some point or another. Various coinciding key events stand out in the slightly differing narratives, which enables an approximate reconstruction of the implementation procedure from an emic perspective.

6.1 The arrival of the *White Man*

A majority of people we spoke to in Kadenge say that the first contact between them and the *White Man* took place in 2002 or 2003. "We heard there was a White Man who wanted to address the people on a certain issue", a village elder remembers. Rumours of the coming of a White Man spread in the area, but at the time they were unaware of his intentions and plans. The village elders recount that he specifically wanted to speak to church leaders. Therefore, even before his arrival, the foreign man was associated with the church by local people. When he then finally arrived, people agree that he arrived "as a Christian" and "in form of Christianity", and not as a prospective investor. This is how the people in Kadenge got to know Burgess – a Christian preaching the word of God – which also explains how he was able to gain their confidence.

Burgess did not arrive in Kadenge alone, but was accompanied by "a pastor from Gem" – Ken Nyagudi – the Kenyan face of the implementation process. Nyagudi's presence was decisive for approaching the local communities. Nyagudi acted as the broker (see 2.2. for the role of national players) between Burgess and the local church leaders, whom Burgess sought to connect with. After Nyagudi helped him get in contact

with different church leaders, Burgess formed a group with church leaders and organised a three-day seminar. One villager – she was later to become a village elder – was cooking at the seminar. She recalls that all the denominations were present and that the church leaders were given bicycles to facilitate their movement (for the preaching).

People reported that crusades took place at various locations in the same time period, and that Burgess was preaching in the churches: "They come and say we want to build some churches here, we'll be worshipping here each and every Sunday, whatever". Others recalled that Burgess came to church and informed the people about their plans after church service. Although it remains vague in what way the upcoming investment was addressed during these events, addressing people via church channels was crucial for obtaining a hearing. "As you know women in Kenya like the word of God and so we attended those crusades", a woman said. Statements referring to their faith were commonly made when explaining how Burgess approached the people.

In this way, a heterogeneous group of people was addressed, promising them a 'better life', which, the county representative recalls, was particularly effective via church channels: "We love him [Jesus Christ], so if somebody comes with prophecies that in the near future you will not be seeing papyrus, thatched roofs, grass, mud walls, but you will be seeing iron sheets, roofs, jobs – that this place will be like Oklahoma". Their love to Jesus and a man preaching in his name made many local people believe in his prophecies of an upcoming life free of hunger and poverty.

Additionally to making promises of a better future, the county representative of Siaya, a local man supporting the villagers in their complaints against the company, explains that Burgess was able to build trust with community members by actively participating in exceptional activities:

"They could even help us dig the graves, some of them. When somebody died within Kadenge area you find a white man digging the grave. So you know, even us, even some of us we would hardly dig the grave, we use people. But here comes somebody who is digging a grave. So you feel that this person is with you. Doing all sorts of things meaning such a person cannot let you down".

This quotation shows the means by which Burgess was able to gain confidence of local communities. Burgess was perceived as a private individual concerned with the well-being of the people in the area, and up to this point not yet associated with a multi-million investment that was about to take place.

People further reported that shortly after, seminars were held in Siaya and Kisumu. Some people were called there and told that an investor had come, but most people could not attend these seminars for financial reasons of transport. The village elders mention that there was a meeting in Siaya to which people were encouraged to attend. However, they were not told what the meeting was about, and therefore only very few attended it. Furthermore, the county representative stated that church leaders and opinion leaders were "ferried" to these seminars in the towns. People only suspect what happened there, and were later informed by the participants of the benefits the investment would bring. However, the county representative insists that these people were taken there to be "brainwashed". He added that when these leaders came back, "they were only talking about the good things that community will get from the investment. So all this were enough to convince people". He polemically concluded that "they came as a church but never built a church".

When people around the swamp had finally been informed about the upcoming investment, mainly through church channels, they initially warmly welcomed the investment. On the one hand, the religious disguise of the multi-million investment helped building trust between the actors involved. On the other hand, the promises made by Burgess along with the desire for development is another factor that contributed to the warm welcoming of Dominion Farms.

6.2 Promises, Expectations, and the Desire for Development

To understand the joyful reactions to the coming of Dominion Farms, it is necessary to briefly discuss the discourses of development that are prevalent in the Lake Victoria Region in Kenya. Politics in Kenya have been highly ethnicised since independence in 1963. This ethnicisation, which was significantly reinforced during British colonisation, is one of several reasons for the gratitude towards the arrival of a foreign investor. In rural Nyanza on the northern side of Lake Victoria, few governmental development projects have been implemented and no major investment projects have taken place before Dominion Farms. Luo in the region are aware of the neoliberal development logic, and saw how investments in other parts of Kenya created wage employment and infrastructure. Furthermore, they blame Kikuyu politicians for intentionally not investing in the Luo-dominated Nyanza region. This ethnicised apportionment of blame historically dates back to the murdering of Luo elder Tom Mboya when Kenyatta

became first president after Kenya's independence. The perception among local people we spoke to was that this ethnicised discourse was used by the government and politicians to promote the investment, as one local man states: "Then the government of Kenya also come up and said 'You guys, don't lose this opportunity, it is your time to have some changes!'" A feeling was conveyed that their time had come to at last bear the fruits of development, which in their perception especially the Kikuyu had already been enjoying for a while.⁴⁵

The 'better life' propagated by representatives of the project in the initial stage included a plethora of promises and benefits. According to various people, the wide range of pledges made in the initial stage included power generation, construction of schools, health centres and orphanages, engagement of elderly people in small businesses, and most strongly emphasised, creation of employment. There seems to be a variety of people who made these promises, ranging from Burgess himself, local church leaders, county councillors up to high politicians.⁴⁶ The county representative feels that it was crucial that individuals from the same ethnic group were making these pledges: "So there was a Luo promising great things that even politicians couldn't promise", continuing that a "poor man" will believe anything. Further, especially many young men were expecting much of the job promises. As described earlier on, many of them had been working in larger cities away from home, and saw these promises as a chance to work at home. One young man stated for example: "At that time I take some hopes because I was very happy that instead of going to some cities away, let me just work here at home."

What further fuelled expectations towards the company was the distribution of free rice in the beginning, a fact confirmed by Dominion's current manager. In front of the company's headquarter trailers were parked where people could collect bags of rice for free, one per family we were told. After some time, Dominion Farms stopped this practice because "you can't give people free things forever. You're not going to help

⁴⁵ The intensity of the development discourse in the region also became evident when we arrived in Kadenge for the first time, and straightly were asked if we are 'bringing development', which turned out to be a persistent question throughout the research stay.

⁴⁶ Schubiger (2015) provides an in-depth discussion of the role of politicians in the Dominion Farms investment.

them. You better teach them what to do. You better create employment for them". This strongly reminds of the rhetoric of development agencies discussed in 2.3.

Here, it is worthwhile to apply De Vries' (2007) Lacanian approach to Ferguson's (1990) notion of the development machine in order to revise the hopes, desires, and expectations that emerged among the local communities in association with the implementation of Dominion Farms. De Vries (2007: 29-32) conceptualises development not only as an apparatus of governmentality, but also as desiring machine that generates certain desires that are necessary to perpetuate itself. "The fantasies of development give rise to a subject that identifies herself in terms of that which she is *not*", De Vries (2007: 33) states.

6.3 Discussion: Emergence of Conflicts

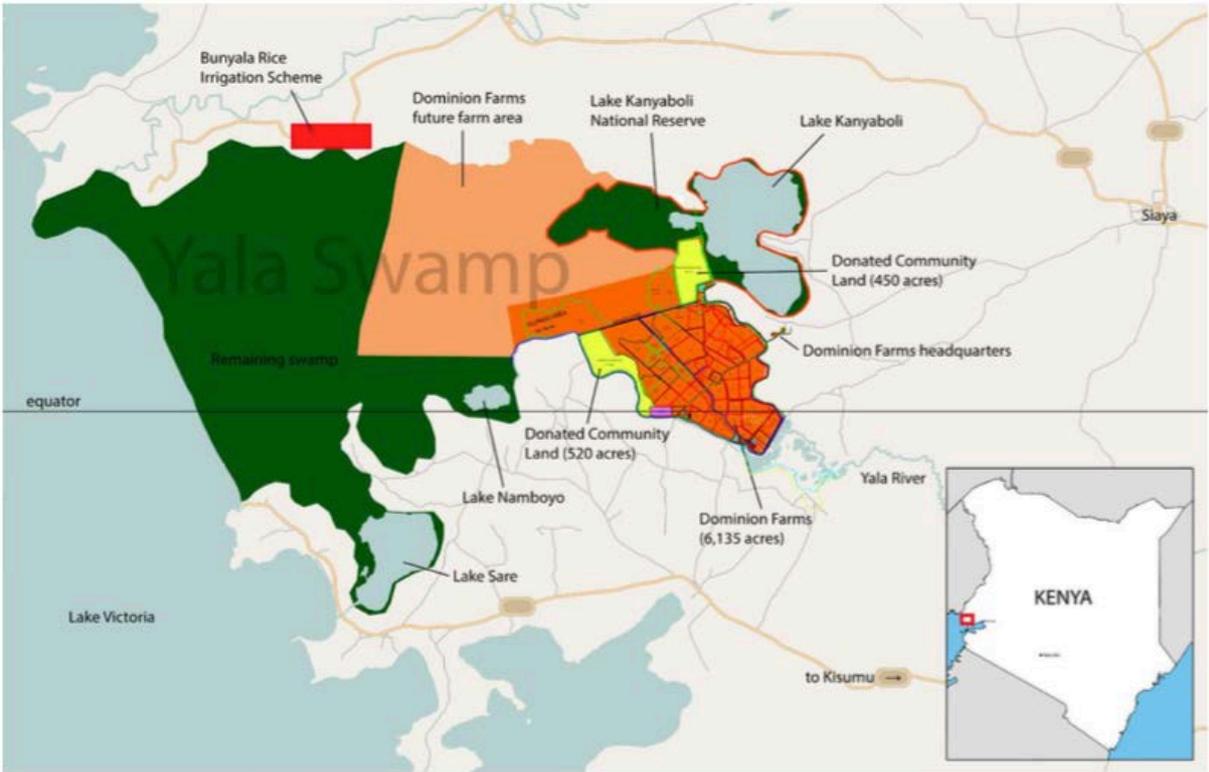
High expectations created by the investor, county councillors, church leaders, and others, which by and by turned out to be "empty promises", as one villager puts it, led to rising tension between local people and Dominion Farms. Especially the extent of informed consent was emphasised by people we spoke to. Incorrect information concerning the amount of leased land, as well as the inability or unwilling to fulfil the initially nurtured expectations led to disappointment among local people.

The extent to which people felt included or excluded in the negotiations of the implementation process varies, depending on who is asked. Although unexceptionally everyone told us they knew that the swamp belonged to the government, they insisted on the fact that it was trust land; land that is held in trust by the County Council of Siaya on behalf of the community. Cotula (2013: 94) calls this the gap between legality and legitimacy, whereby the government formally owns the land but the people feel the land they have used for generations is theirs. Therefore, although the Yala Swamp is ultimately commonly owned land, the County Council has the authority to act on behalf of the community (van Heukelom: 188 ff.). Schubiger (2015) describes how holding in trust of the people on their behalf often ends in control over this land by the state.

Especially the village elders as traditional authority involved in decision-making processes together with the chief feel that they were included far too little in the negotiation process (see 5.1.2.). Not only did they not feel involved in the process, they also feel betrayed in the way Burgess approached them; they accuse him of concealing what he effectively had been planning. He did not approach them over the correct way

but merely through church, and did not tell them what people labelled as ‘real intentions’. It is not surprising then when the village elders say: "This was all a show in order to break into the community and gain acceptance", and "this white man was very deceitful. He never had any intentions of letting people know what he had planned. Because everything he had said were all empty promises". In this context they also complained that it was obvious that they would not take a journey that costs them approximately 300 KSh in order to attend a meeting they do not know what it is about, when they have fields, livestock, and other time-consuming duties to take care of.

Furthermore, what made people feel that they were intentionally deceived by Burgess, was the amount of land he ultimately leased. According to local people, they were told that Burgess was to lease the part, which had already been used by the LBDA before, that is 3,700 ha. However, ultimately, Burgess acquired 6,900 ha, that means twice the area that was communicated to local people. Van Heukelom states that the opaque nature of this contract makes it impossible to find out when the exact additional 3,200 ha were leased to Dominion Farms (2013: 173).



Map 6: Operational Area of Dominion Farms (van Heukelom 2013: 160).

To conclude, following De Vries (2007) it is not that local people targeted by LSLA are naïve, but they were, as a village elder puts it, "deceived" by Dominion Farms. "The investor came to us in a very proper way. We liked what he said. And we thought what he had in mind was good. And if he had kept his promises I think it would have been a good thing." Hence, the local people hold Burgess and Dominion Farms accountable for the unfulfilled development promises: electricity that did not arrive on a large scale, schools that were not built, and jobs that never opened up to the promised extent; or as De Vries puts it, "for the material and economic progress that was promised but only arrives in their dreams" (2007: 26). They have been taught to desire things, which now do not materialise. However, points of contention comprise more than issues of procedural nature.

7 Resilience Grabbing, or ‘Dominion has the biggest shamba now’

Towards the end of our research stay, I was passing by Dominion Farm’s rice fields with a young man on his motorbike. He pointed out to the seemingly endless rice fields and half jokingly stated: “Dominion has the biggest shamba now”. *Shamba*, translated from Kiswahili as ‘a plot of land for growing crops’, usually refers to a rather small plot of land that is cultivated for subsistence. Dominion’s shamba, however, ultimately encompasses an area of 6,900 ha (40% of the Yala Swamp), of which approximately 2,300 ha had been put into use at the time of research in 2014. The following quotation by another villager gives a condensed overview of the immediate impacts of this land deal: “We have nowhere for our cattle to feed, we have small farms, we have no job”. Therefore, affected people have lost access to an important pasture, they do not have enough land for cultivation, and few of them have the possibility to profit from wage employment. These immediate impacts, however, entail effects that reach further than loss of access to land and lacking wage employment. This chapter provides an account of direct and indirect project impacts as experienced and perceived by affected people.

First, I discuss the loss of access to land within the swamp and its associated resources (7.1.), before broadening the discussion to the associated loss of pastures (7.1.1.) and how this loss relates to the monetisation of social relations (7.1.2.). I also discuss the loss of farmland and what this means for local people (7.1.3.), before turning to the community land provided by Dominion Farms as compensation for the loss of the swamp (7.2.). After paying attention to wage employment (7.3.), I also outline the experienced ecological impacts (7.4.1.), and how the investor himself is perceived (7.4.2.), and argue that the convergence of various impacts leads to a deterioration of resilience capacity of many local livelihoods (7.5.).

7.1. Access to the Swampland and Associated Resources

The most obvious and immediate impact mentioned by affected people was the loss of access to the swampland and its related resources. As elaborated in 5.2. and 5.3., the Yala Swamp constituted an indispensable resource for food production and income generation. Moreover, from a local perspective, the Yala Swamp also provided a solution for the increasing population and a general trend of land becoming scarce, as well as for unpredictable climate variability. The vital role of the Yala Swamp lied in enabling a diversification of livelihood strategies through the multifunctional use of its resources

for a growing population. The multiple and diverse livelihoods were crucial as a risk-minimising strategy and for the resilience capacity of local livelihoods.

Since the implementation of the Dominion Farms project, access to the Yala Swamp has been severely restricted. By establishing institutional and physical fences around parts of the swamp, Dominion Farms intended to secure their own access while simultaneously restricting access of others (cf. Peluso and Lund 2011). Spatial enclosure has been achieved by fencing off a great part of the land leased by the investor, foreclosing local people of access to the water from canals and an access road to villages on the northern side of the swamp. The confluence of spatial enclosure and institutional enclosure by means of privatisation of a specific territory, in this case 6,900 ha of the swamp, affects the “bundle of rights” (Ribot and Peluso 2003) of earlier users, and turns prior “common property landholders into trespassers by the stroke of a pen” (Peluso and Lund 2011: 674).

In order to compensate the communities for the loss, according to the manager of Dominion Farms, the people who had title deeds for land in the swamp were compensated. According to van Heukelom, the affected families received 45,000 KSh per acre (van Heukelom 2013: 189). This compensation was allegedly paid to the Government, and it seems unclear what happened with this money afterwards (ibid.). But apparently some resisted and did not move from the swamp (ibid.). However, a local man rightly asked us how people are supposed to be compensated, when the swamp constitutes public land owned by the local government and no one owns title deeds of governmental owned land. Although I am not able to make any final clarifications on compensation to individual families, the affected communities in Alego and Yimbo additionally received community land as recognition and compensation for their communal loss. This community land, which is discussed in 7.2., is to a great extent the only part of the swamp in Kadenge sublocation, which the community can access on a legal basis. The exclusion of local people from accessing the swamp has direct impacts on their earning potential and food security, as well as rather indirect impacts, such as the increasing venality of social relations discussed in 7.1.2.

7.1.1. Loss of Pastures

"So now, since the company took this land, fenced this place, nobody is entering here to graze his cattle. What became a challenge now, if you had a hundred cattle, and now there's no place you can go and graze your cattle, you must reduce them. You must sell them to remain with the little that you can manage".

This quotation by a local employee of Dominion Farms shows how the number of cattle, being a "common pool resource-related resource" (Haller 2013: 8), has declined sharply as a consequence of the severe restriction of access to the Yala Swamp. Local communities had been using the swamp as a large grazing pasture for their cattle "since ancient times" (see 5.2.). Before Dominion took over the land, a variety of people claimed to have had a large cattle herd, consisting of "really many, like 100 cattle", as for example one woman told us. As these two quotations indicate, people often referred to the large number of cattle they used to own. According to the chief, when access to the swamp was still available, households with a herd of twenty cattle were considered poor. However, with the physical and institutional fencing of the land, they lost access to this important pasture. Under these circumstances, many people found themselves constrained to sell their cattle. The same woman explained that "today there is not even one cow because when the company came, there was no grazing land anymore, so they decided to sell the cows, now they have none". Some people recounted that even if they had decided to keep their herd, much of the cattle had become very thin as a result of lacking pastures and eventually died. Consequently, people with a herd of twenty cattle are considered rich today, the chief stated. The decline in number of cattle is perceived to have several far-reaching consequences in different livelihood spheres.⁴⁷

The most highlighted implication of the loss of large numbers of cattle relates to their role as a capital reserve (Wilemski 1977: 133). As elaborated in 5.2.3, cattle served as an important asset through which monetary income could be generated in case of unexpected or future needs. A man explained that by selling his family's livestock, cash was generated in order to pay his school and college fees. This livestock, he continued,

⁴⁷Consequences and valuation of losses described in this chapter are based on emic assessments. Although beyond the scope of this research to conduct a thorough economic analysis, emic perceptions of high losses indicate tendencies, which would have to be empirically tested in further surveys.

was grazing within the swamp. But now, with the sudden loss of this vital grazing land, “so many people do not get education here”, because they have no livestock left, which they could sell in order to fund these costs.

According to what we were told, school fees in the area can add up to 20,000 KSh per year for one child, and the sale of a cow can bring in up to 20,000 KSh. Bearing in mind that a household usually consists of more than one child, the amount of money that has to be generated in order to pay school fees for a number of children over several years is tremendous for local conditions. Recalling the importance of education for the Luo (5.1.), the prevailing egalitarian view that all their children should profit from education (Parkin 1978: 82) explains why large cattle herds were desirable and of importance to them. Furthermore, the importance becomes apparent when considering the economic value of cattle. The sale of cattle provided a means by which these high costs could be met to an extent that is not to be underestimated. Therefore, it is not surprising that the loss of pastures and consequently of cattle as a capital reserve is perceived as an economic hardship by many people.

A further consequence is the loss of draught power. Whereas Shipton observed an increase in ox-ploughs in the course of the 20th century in Nyanza Province (2007: 53), we only encountered a few farms where oxen were used as draught power. This loss especially affects the women in the area. Now “it is more hard”, as one woman puts it, because “in the past, our parents used cows to plough but nowadays, we use our hands”. This is especially tough for more vulnerable women, such as the woman we stayed with. As noted before, her husband lives in Siaya town, and the two children, who stay with her, still attend school. Furthermore, she does not have enough income to employ someone to help her on the field, which would cost her approximately 200 KSh per day. Consequently, she has to carry out this time-consuming work by herself, from preparing her acre of land by hand, planting the seeds, weeding, and then harvesting. All this has to be done in the morning, because she has to work in her tailor shop in the afternoon to earn some money for the school fees of her children and other basic household items.

According to one villager, the loss of livestock also leads to more poaching: “People had a lot of livestock then and people would not venture into things like poaching. They used to get a lot of milk and you know poultry, they had a lot of poultry. Now getting even a kilo of meat is very difficult, you have to go and poach”. Abila already observed that hunting was carried out on an irregular basis in the region to augment food

requirements before the arrival of Dominion Farms (2002: 91). With loss of access to the swamp, it is likely that an increasing number of individuals venture into poaching. However, throughout the research only one man admitted that he would occasionally poach. People seemed cautious talking about poaching, which is likely due to its illegality and the harsh critique by local environmentalists.

7.1.2. Increasing Venality of Social Relations

The loss of cattle as a capital reserve relates to a profound change observed by the chief. He explained that money, which was introduced in the region under British colonial rule, is something relatively new to the local people: “In our local language, we believe that money was introduced by a white man. That’s why when I say money is a new thing, I’m referring to what our people say about money”. Under colonial rule, people were forced into individual cash accumulation through the imposition of monetary taxes and related enforced labour (see 4.1.). Subsequently, social relations were increasingly subject to venality (cf. Elwert 1989), or in other words, socio-cultural relations became increasingly monetised. For example, additionally to paying bride wealth with cattle, this means of payment has increasingly been supplemented with cash (Parkin 1978: 249; Shipton 1989: 24). Haller (1999) observed in Cameroon that increasing subject to venality led to a prioritising of immediate cash income over future pay-offs, meaning that there is a prevalent preference of short-term gains to long-term benefits (see 2.4.). In Cameroon, the high discount rates of the distant future subsequently led to environmental degradation and food insecurity (ibid.).

However, as noted in 5.4., the Yala Swamp constituted a special situation. On the one hand, it served as an important resource for crop cultivation, fishing, cattle grazing and other activities for subsistence needs. On the other hand, the swamp was able to provide future security through providing pasture for cattle, which then could be held as a capital reserve to meet monetary needs. But the swamp also provided a resource for immediate monetary needs: Surplus harvest or fish could be sold on local markets, as well as baskets and mats made from papyrus or products derived from cows, such as meat and milk. Therefore, local people did not discount the distant future at a higher rate than the immediate future, that is the short-term income of cash did not have priority over future reserves (cf. Haller 1999), since the swamp was able to satisfy

subsistence and cash needs, as well as immediate and future needs. This was crucial for resilience of local livelihoods (cf. Figure 2).

Although the increasing venality of social relations had started long before the investor arrived in the area, this process has increased with the coming of the investor and the associated loss of access to the swamp. The chief stated that with the deprivation of the swamp, the only possibility remaining to meet subsistence and cash needs is via cash accumulation on an individual basis: "The only option that is now remaining here is either you are employed directly, or maybe you have some business, like a retail shop. These are the only options remaining here". This quotation points out to the loss of the diverse and multiple livelihoods that were common when regular access to the swamp was still possible. Furthermore, it also implicates progressive subject to venality of social relations.

The monetisation of social relations is closely related to the discount rates of the future. The chief told us that often, if you ask a local employee of Dominion Farms for money, they claim not to have any. He asked himself "how come that they are working inside there, and they tell you they don't have"?. He located the problem in the management of money, or in other words, in the high discount rate of the distant future.

According to the chief, after receiving their salary from Dominion Farms, local employees immediately spend the earned money. Dominion Farms pays its casual workers in cash every second week (see 7.3.). After being paid out, the people buy the domestic items they need and desire, or drawing back on De Vries (2007), the items they were taught to desire, on the market on their way home. They arrive at home with nothing left, and have problems paying school fees, which would require saving, the chief continued. He concluded that the people were "becoming poorer as opposed to before 2000", because they cannot handle the money they earn, neither do they have any forms of reserves left. This suggests that, as opposed to before the arrival of the investor, the future is now discounted at a higher rate. Through the loss of diversification of livelihood strategies, pressure to generate cash has increased. More has to be bought on local markets, and money is needed for increasingly more things because of monetisation of social relations. People might have spent it immediately before the investor came as well, today this has a noticeable effect, as opposed to earlier when the swamp could provide enough of everything. Cash disappears quickly, Shipton states, it has "created its own morality" (1989: 23).

A further related point the chief addressed was the visibility, respectively increasing non-visibility, of wealth. The moral economy in Luo communities (5.1.1.) underlies redistributive behaviour of various kinds, including bride wealth, livestock loans and other reciprocal exchanges (Shipton 1989: 17). Cattle was deeply embedded in social relations and in these exchanges through e.g. bride wealth. With the loss of the swamp and pastures, the number of cattle has declined and social relations have increasingly become monetised. In contrast to cattle, which was visible, money is regarded as something 'invisible':

"That's why I am telling you that you can't know if somebody has maybe 20,000 in his pocket. But you believe wealth, like a herd of cattle, catches to get more fish, and many other such things that are seen, that are tangible actually [...] Because in our old system we never had something like that [money], we believed, somebody who is wealthy you see a flock of animals, or granaries of crops, you are a rich person".

In pre-colonial times, the number of livestock and the number of granaries filled with crops indicated if a household was considered wealthy or not. However, wealth is not tangible anymore, which makes it easier to circumvent social obligations. Cash can be hidden in someone's pocket, whereas herds of cattle are visible and cannot be easily hidden (Ferguson 1990: 152f.). This indicates that the chief is increasingly losing his redistributive function, which is described in 5.3. with regards to access to the swamp.

Furthermore, the shift in visibility also implicates a shift in currency and away from a human economy to a commercial economy (cf. Graeber 2012).⁴⁸ "This cash has made people to go negative", a villager told us. These quotations illustrate that increasing subject to venality, leading to invisibility of wealth, lets the people fear that solidarity is endangered. Cash accumulation is a household-centred form of wealth, Ferguson found in Lesotho (1990: 153), which does not require cooperation, "people with money can live by different rules than people without", as Shipton notes (1989: 24). This seems to be increasingly felt on the ground. The chief even stated that he wants to introduce another system together with the people, because he feels that money – as it is used now – is not working for his community.

⁴⁸ Graeber describes a human economy as an economic system, in which the currencies are also used to sell and buy material goods, but their primary function is to arrange marriage, resolve conflicts, make gifts, etc. (Graeber 2012:412).

7.1.3. From Three Meals to One Meal Per Day

The situation of limited access to the swamp has very visible impacts on daily life as well. As elaborated in 5.2., the swamp was essential for meeting subsistence needs in terms of food, and crops derived from the swamp are said to have supplied the surrounding areas up to Siaya town with food and cereals. With the coming of Dominion Farms, people who were farming in the swamp were evicted from the wetland. The impact of this eviction was especially reflected when people talked about the notion of food security in the region and the change of diets in the last decade. They concluded that the area is not food sufficient anymore, as opposed to before the investment. Today, ample supplies of grains are rarely seen in the granaries. Or as an older man put it, "the big granary is empty". But not only the storage of future stocks has become difficult, the impact on immediate consumption was emphasised even more by local people.

Many local people talked about the number of meals they used to have earlier, and how many they were able to have at the time of research. The frequently discussed change of diet generally followed the same narrative pattern. People mentioned that ten years ago it had been easy to afford three meals a day, whereas today, without access to the swamp, it has become a challenge. As one man stated, "you know, getting three meals a day now is very difficult [...] even affording one meal is difficult". Another woman explained why: "Today, you can miss land so you can miss supper". Indeed, we observed throughout our research stay that people did not eat much throughout the day. This became especially apparent in the homestead we were staying. The woman we were staying with usually only cooked in the evening for herself, her sons and us, and in case there were leftovers, these were consumed the following morning by her sons.

Additionally to the decreased quantity of meals taken, special emphasis was put on the reduction of the quality of meals. In the swamp, a variety of crops could be grown, which enabled a certain diversity of meals. A villager describes the typical Luo diet prior to Dominion's arrival:

"You eat porridge, maybe porridge in the morning, porridge that is well nourished, porridge that has milk in it, even if it's not sugar but a lot of stuff in it. Or taking tea with milk and you know these sweet potatoes. And, or cassava. And then maybe at lunch dried meat, because we had a lot of millet here and sorghum. Dried meat that is enriched with milk and...I tell you, a lot. If I started mentioning them now you will get surprised".

Therefore, impacts not only include a reduction of food production in the area, but also a less diversified diet. The statement that we would be surprised referred to the staple dish at the time of research: ugali together with local vegetables such as sukuma wiki (collard greens). This was eaten daily with few deviations. Meat was not consumed regularly as a result of the small number of cattle in the area. The women in the focus group discussion complained that diets were not balanced anymore, and that land further away from the swamp is “too hot” for planting cassava and sweet potatoes, in contrast to the fertile land in and around the swamp. The former Special Rapporteur on the right to food of the UN, Olivier De Schutter, asserts that food security is increasingly linked to production, instead of ensuring availability to the nutrients necessary for full physical and mental health (De Schutter 2010: 4ff.). However, this is an aspect of food security that was ignored in Dominion Farms’ discourse to ensure food security in the region.

Additionally to lack of space for crop cultivation, fish production has decreased as well and is not eaten on a regular basis anymore. Reduced water levels as a result of water controls in the form of the weir and diversion of the river Yala (see ecological impacts) has impacted local fisheries. According to the chief, since Dominion Farms constructed its irrigation schemes, fish catches have massively gone back, stating that “the last catch was in 2002”. This leads to the use of wrong gears and small mesh sizes, and consequently to the restricted access imposed by the Ministry of Fisheries mentioned in 5.2.2. Not only fish numbers have reduced, the chief stated that the lowered floods reduced the variety of fish in the swamp, leading to a situation in which local species cannot be found anymore. Indeed, Adams found that lowered flood levels can lead to changed migratory patterns for fish to breed (Adam 2002, cited in Haller 2010: 20-21). This change led to a decrease in fish stock, as a local environmentalist explains: “They don’t breed in open water like those of Lake Victoria, when they want to breed their hideout is the papyrus swamp [...] So when it is destroyed, the fish stock will go down”.

But what about the rice Dominion Farms is producing, based on the discourse to ensure food security in the region? In his report to the Human Rights Council, De Schutter (2010: 4) states that ensuring the right to food also requires food to be culturally acceptable. At the time of research, this was not the case yet. It is worthwhile to mention that the local people depend on ugali and do neither like rice nor do they

consume it regularly. The chief admits, "a Luo man like us we are used to ugali. And if you cook somebody rice, the following day your name will be told somewhere 'I left so-and-so place without eating!'" Throughout our research stay in Kadenge, the occasions we ate rice can be counted on one hand. Furthermore, we were told that most people can only afford the lowest quality rice, which is intended as chicken feed.

Findings further reveal that the loss of access to the swampland particularly affects women. In most African countries, and also in many Luo households in Kadenge and the surrounding area, women are the major food producers and carry the primary responsibility for a wide range of basic needs such as food, water, health, and school fees (cf. Henn 1984; Davison 1988; Thomas-Slayter et al. 1998; Rocheleau et al. 1996). Therefore, a scarcity of resources such as land or water primarily increase the pressure on women, since they are responsible for the procurement of these resources (Rocheleau et al. 1996). In the focus group discussion, the women agreed that the school fees and food supply are women-specific responsibilities, which, according to them, also constitute the biggest problems today. Many women in the focus group discussion complained that the subsequent lowered level of nutrition due to food insecurity and less diversified meals particularly affect the children, because it proves hard for them to concentrate at school. Considering the limited livelihood strategies to obtain cash, it is not surprising that many women further stated that it is difficult to bring up enough cash to pay the high school fees, which are approximately 20,000 KSh per year for one child. Women in the area we spoke to, and who used to sell surplus harvest and milk in order to pay school fees and uniforms, feel especially affected. They stated that "life was very easy compared to now, now it is full of struggling". As will be shown in 7.3.2., the manager of Dominion Farms states that they specifically employ women because they are aware of their responsibilities and conscientiousness.

7.2. Compensation: The Community Land

"Everybody was working there before Dominion. So when Dominion came, Calvin said 'You, I have bought all this land. So I don't want to see anybody there'. So people just came and said 'Hey, how are we going to survive?'"

Dominion Farms compensated the communities of Alego and Yimbo for the resource loss with a parcel of community land each. The somewhat opaque Memorandum of Understanding (MoU) determines 150 acres to be given to the community (Nolte and

Väth 2015). The relation of this amount of land compared to what people were able to access before becomes evident when the Chief jokes that he thought "these people were confusing hectares with acres", and then seriously adds: "What can 150 acres do to this community"? After various complaints by the community and with the support of local NGOs, ultimately 450 acres were allocated to the Alego community, respectively 460 to the community in Yimbo.⁴⁹



Image 1: The compensated community land adjacent to Dominion Farm's rice fields and Lake Kanyaboli on the right (Google Earth).

According to the chief, it was agreed that Dominion Farms would be in charge of the management of the newly created community land. Hence, Dominion Farms was supposed to prepare the land for the communities and distribute it equally to the people, in order to avoid unequal distribution of land within the community. But while Dominion Farms was occupied with their farm and neglected management of the community land, some community members turned out to be "impatient", as the chief

⁴⁹ According to Dominion's manager, they allocated this amount out of good-will.

terms it. Knowing that access to the community land is limited because of its size, these people "rushed" on the land after it had been drained by Dominion and started preparing it; either for their own use, or they employed people to cut the papyrus and prepare it for cultivation, in order to further lease or sell it.

Through this presence-absence of the investor as manager of the community land, distribution of the land was based more on economic factors such as cash capacity, as well as on physical ability. This stands in contrast to the earlier regulations, where distribution was rather following principles of a moral economy, within which other factors than only economic capacity were decisive to acquire a parcel of land in the swamp. The chief states that they are facing big challenges now, because these "active people" have acquired large amounts of the community land (up to 2 acres), leaving others with no land at all. The latter especially constitute vulnerable groups like old, sick or disabled people, as well as widows. Especially affected are vulnerable people from the three villages adjacent to the swamp, which used to rely most on the swamp for their livelihoods.

Furthermore, it is unclear who has the right to access and benefit from the community land. Some people stated that the community land was allocated to the communities of Alego and Yimbo, whereas others said the community land on the Alego side specifically belongs to Kadenge sublocation. Despite this confusion about who has the right to benefit from the access to the community land, claims that it is possible to lease or buy land suggests that people from outside Kadenge sublocation or even the larger location can acquire land. A man working on the community land said that it is possible to lease 1 acre for 5,000 KSh for a limited time span of two years, or to buy it for 15,000 KSh. He also asserted that people would come from other sublocations than only Kadenge in order to cultivate crops on the community land. Drawing back on Ostrom's Design Principles, the currently very vaguely defined group boundaries create a *de facto* open access situation, in which people with economic capacity have an advantage over others.

Since the institutions, which previously regulated access to the swamp, are not working anymore (or at least not as they should), the created *de facto* open access situation is creating tensions and conflicts among community members. The chief was called to settle several boundary disputes on the community land during the research period. He explained that most conflicts emerge during the planting season, when

people try to encroach on other's farms by slowly shifting the borders on the land of neighbouring fields. Since the official land officers in Siaya town are only responsible for disputes occurring amongst people with formal title deeds, it is the chief who takes in a time-consuming arbitrating position in these conflicts.

After people harvest their individually planted crops, the community land becomes communal grazing land. Therefore, concerning the management of grazing in the swamp, the communities are using the “old method”, as the chief puts it. This refers to traditional institutions that were used to regulate communal grazing as described in 5.2. and 5.3. After the cattle has grazed, there is a redistribution of land before each planting season. According to the chief, he is negotiating with Dominion Farms on how to further manage distribution of this land.

A further interesting point is how the community land is locally perceived. Although it is located within the swamp, the local population does not necessarily perceive it as land belonging to them anymore. The chief notes that it is indeed labelled ‘community’ land, adding “but it is inside his land”. As if they were drawing back on Ferguson’s plea to discuss land issues not only with regards to the agrarian question, it shows that land is bound up with a range of social processes (Ferguson 2013). Socio-cultural values have to be included as well, might help understand why the community land is not perceived as their land. The local rules and regulations governing access on a moral economy basis do not apply anymore, and basically anyone can buy land if he or she has enough cash.

To conclude, although people generally are grateful for having some place in the swamp to cultivate crops, they complain that the community land does not correspond to the amount of land they were able to access before. Especially the chief emphasised that vulnerable groups are not able to benefit from the swamp anymore, leaving a group of landless people, which was non-existent before.

7.3. Wage Employment

The creation of wage employment was one of the major justifications for the Dominion Farms project to exempt the local communities from poverty, and was also one of the biggest expectations people held towards the company (see chapter 6). In the perception of the local people we were in contact with, lack of wage employment turned out to be one of the biggest disappointments.

7.3.1. Access to Employment and Working Conditions

Employment can bring direct benefits to affected people – if sufficient people are employed and working conditions and salaries are appropriate. In the initial stage of the implementation process, approximately 1,500 people were employed (van Heukelom 2013). However, with progressive realisation of the project, the farm became increasingly mechanised and the labour of a majority of the people became superfluous: "You can't harvest rice with labourers, so they have to use machines", a former employee explained.

At the time of research, we were told by affected people that Dominion Farms employs approximately 600 people, of which 180-200 are full-time employed. In the villages, these are said to be skilled and educated people who work as e.g. constructors, tractor operators, or in the headquarter office. These labourers are employed on contract or permanently, and local people claim that a majority of these people are not from the area. "Even right now if you see the number of workers inside there, I can say that 80% don't belong to this village. 20% belong to this village", we were told. Burgess confirmed towards van Heukelom that skilled positions are merit and skill based (van Heukelom 2013: 197). Furthermore, some people claimed that many full-time positions are given to well-connected people, friends of the investor and family of the manager. The former employee we talked to further stated that he estimates that the 20% from the village are mostly women, employed for bird chasing and weeding, therefore jobs which are only temporary and badly paid. These workers are employed on a seasonal basis, depending on the work that has to be done on the fields. The number of casuals changes regularly. The manager of Dominion Farms told us that between 400 and 2000 people work as part-time casuals, because "it depends on what work I have [for them]". However, according to information of villagers and to a personal communication from Calvin Burgess to van Heukelom, only 400 people are employed as casuals (2013: 197). The relation between the number of full-time and part-time employees became apparent during our stay in the region: We met only one man who is permanently employed and is working on the farm Burgess is establishing in Nigeria.⁵⁰ All the other (former) employees we met, were/are employed on a casual basis.

⁵⁰ In 2012, Dominion Farms acquired 30,000 ha in Nigeria's Taraba State to establish a rice plantation. Like in Kenya, the project is backed by the Nigerian government. GRAIN official website. <<https://www.grain.org/article/entries/5126-dominion-farm-s-land-grab-in-nigeria>>.

Access to employment is perceived as rather difficult. Various people told us that they were able to start working at Dominion Farms because they knew someone who had been working there, who somehow managed to get them a job. A common narrative is that in order to be employed other than on a casual basis, you need to be educated, which is why the company employs people from the towns. People, who want to work as casuals stand in front of the gate of Dominion Farms every morning at 6.30. The procedure is described as follows:

"So they were just picking people randomly there. You just come with your identity card, very early in the morning, they say we need ten men, we need ten women, then they just say you and you and you and you come".

Therefore, there is no certainty of being employed over a longer time span. Apart from randomly picking people, what makes it even more difficult to get employed is the amount of people who seek for formal employment, as one woman tells us: "It is sometimes a very big problem, sometimes we are very many that makes it very difficult to be employed. Sometimes you need it but you actually don't get it as well, so it varies from time to time". Among the affected people, there is ample interest in formal employment, which cannot always be provided, the company's manager states: "They just sit there, waiting for a job, whether it is there or not". Subsequently, employment is perceived as unstable and on-off employment, rather than bringing the hoped-for stability and security.

The insecurity, however, can continue even if employed. A former employee told us how he was suddenly terminated because he requested to be employed on contract. According to him and information from a representative of an NGO working with local farmers, casual workers can be employed on part-time basis for a maximum of three months, and the minimum wage is supposed to be 250KSh per day. After being employed for over three months as a casual, he threatened to contact labour unions, whereupon he received a very short contract, and "then they told me it is over". This former employee told us he would have the possibility to work for the company again, but he fears to give up the motorbike business he built up in the meantime because of the company's unpredictability. He also stated that people are laid off when they talk negatively about the company.

Several people told us that the average wage for casual workers is 150 KSh per day. Despite being grateful for having access to wage employment, wages are perceived as

too low: Many people complained that this amount was too little to meet their needs: "It was not enough, it was just for a time. Just for stomach, but no you can't do something over that. Even educating a child it was a problem".⁵¹

What further constituted a big problem for those who were employed was Dominion Farm's irregular paying out of salaries at the time of research. In the initial stage of the project, Dominion Farms paid out wages every week, but extended to two weeks some time later. During the last month of our research stay, wages should have been paid out twice. Salaries are paid out on this two-week basis in Ratuoro. However, on two following Saturday mornings, we were suddenly told that Dominion is not paying out salaries today. For local people, this means that they did not receive their share for over a month. Keeping in mind all the costs people have on a daily basis, this creates a precarious situation for local people, who are dependent on this income for meeting daily needs. The eldest man of Siaya, complaining that people do not have food because they do not have money because they are not working traces the ultimate problem back to the same as Ferguson does: "This people are not working because no one can employ them".

Furthermore, people perceive certain working conditions as dangerous. First, concerns were expressed with regards to women walking long distances to Dominion Farms in the dark because of wild animals. When there, bird chasing and weeding implies many hours standing in the sun, with no toilet facilities near. Although Dominion equips workers with boots, many workers we saw were wearing shredded boots that certainly do not protect workers from snakes, which are said to be common in the rice fields. Nonetheless, working conditions are rather tolerated than contested. A former employee explains why:

"If I say that this work is going wrong with me everything then your boss will say 'Ok fine, if you are not satisfied just leave the gate'. So you just come and sit down and say what about if I leave here? Where am I going to head? I am going to head nowhere, so let me just keep on working, even if I am not happy".

⁵¹ For example, one can of maize was 80KSh during the planting and weeding season and would go up to 100KSh before harvest, and down to 40KSh per can after harvest when maize was plentiful. A tomato was 10KSh, and vegetables such as kales were 5KSh per leaf. Accordingly, it becomes clear that 150KSh are easily spent merely for meeting food requirements of a household, and is therefore only sufficient for immediate consumption needs.

This again points out the loss of diversification of livelihood strategies as defined in 2.6., and explained by the chief in 7.1.2. If waged employment is the only possibility to earn an income, there is a certain pressure to accept the working conditions.

7.3.2. Gendered Empowerment?

"We know who takes care of the families, it's the women. [...] We give more jobs to the women. Because if you have 50 Dollars and I have 50 Dollars, I am going to buy a soda with the 50 Dollars, but Elisabeth is going to buy dypers and food and take all of it home. So in giving opportunity to a woman you are taking food to the home directly".

This quotation from Dominion Farms' manager shows how the employment of women is used as a justification for the project. The women encountered during research view the possibility of employment as empowerment. Traditionally, women used to sell milk of the cattle, but "this money actually it was not easy to decide by your own because it had to pass through him [husband] first". Since the cattle traditionally belong to men, the money from the milk of the cattle in the first place belongs to the men as well. Now, with employment, the income generated belongs to the women: "It has really changed, because nowadays when I work in Dominion, the salary is mine and I am able to decide what to do with it like paying part of school fee, buying my own clothes and my son's uniform, it also avoided conflict between me and him since men are always hard in their money". Van Heukelom also reports an overall positive response of women who are given employment and their opportunity to generate their own incomes (2013: 197).

However, I would like to point out a few things more critically. These were women who had been employed by Dominion as casuals for weeding and scaring away birds. Although responses of these women concerning being given the opportunity for wage employment and generating their own incomes are positive, these responses have to be seen in relation to the number of people and women being employed. Although for those who are employed it is an opportunity, there are only very few who have the possibility. As noted above, there is always long line in front of the gate, and it can be very hard to be employed at times. In the focus group discussion, the women emphasised that only few of them have had the possibility to work for Dominion Farms. Moreover, even if they have the opportunity to benefit from employment, this is only on a temporal basis.

Pearce further reports of a man who is not happy about Dominion's prioritised employment of women. He wants Dominion to employ the young men as well, in order to "avoid their idleness" (2013: 93). The people who are locally employed are just

women for the weeding and bird chasing. Indeed, young men who had finished school or dropped out or did not have the money to pay the fees tended to hang around at the motorbike taxi point. The son of the woman we were staying with, for example, sometimes borrowed the motorbike and tried to generate a little income by offering a ride.

The previous subchapters already suggest a rather unequal distribution of costs and benefits. Discontent over loss of land is even better understood when comparing the relation of people who used to benefit from access to the swamp, to the amount of people who gain from employment opportunities created by Dominion Farms. The amount of people, which directly benefitted from the swamp, lied in a (at least) five-digit range, whereas people, who can directly benefit from employment opportunities lies in a three-digit range.⁵² Additionally, as illustrated above, those who can directly benefit from employment permanently are said to be people from outside the affected region. The few local people, who have access to employment, can only benefit on temporary basis as casuals.⁵³

7.4. Perceptions of Environmental Changes and the Investor

With the acquisition of the Yala Swamp, apart from resource access that has been significantly impeded, the quality of the resource has declined as well. In course of the implementation of the project, several infrastructure measures had to be undertaken in order to be able to grow rice and to ensure efficiency of this industrial-size project. Measures included "the rehabilitation of dykes, the construction of an incomplete weir, the levelling of land, the building of diversion and feeder canals, maintenance and construction of infrastructure such as access roads, storage facilities, drying facilities, warehouses, staff houses and the construction of an airstrip" (Calvin Burgess, cited in

⁵² As indicated in subchapter 5.2.1., numbers concerning people who (directly) benefited from the swamp's resources vary between 15,000 and 35,000. If the lowest number of people the swamp is said to support (15,000) is compared with the number of people, who enjoy access to employment (600), the disproportionate nature of people who benefited from the swamp and who can directly benefit from employment opportunities becomes evident.

⁵³ An economic costs-benefits analysis poses several obstacles. The biggest challenge in this case is to collect data on information people did not note down and which is from over a decade ago, such as the number of cattle owned, number of fish catches, etc., and the market value of these products at the time. Due to lack of necessary data and tools, I am not able to make an economic costs-benefits analysis.

van Heukelom 2013: 174). Irrigation infrastructure was constructed as well and came into use by 2006 (ibid.). This subchapter illustrates the emic perceptions of ecological degradation through the use of pesticides and fertilisers, but also the perceived destruction of their land due to unforeseen events that are led back to Burgess' *technological power*.

7.4.1. Ecological Degradation

Ecological impacts mentioned by local people foremost refer to the contamination of land and water, and the effect this has on humans, as well as on animal and plant life in the area. Local people told us that when Dominion Farms began with its operations, they started spraying herbicides and fertiliser with a small aeroplane. Calvin Burgess confirmed this in a personal communication to Van Heukelom, but claims to never have sprayed fields in proximity of working labourers (Calvin Burgess, cited in van Heukelom 2013: 198). However, residents in the surrounding area report of adverse impacts the aerial spraying has on the surrounding environment, subsequently leading to the contamination of land and water.

The widespread contamination of land and water is explained with the winds, which carry away the pesticides and fertilisers and spread them all over the area. Local people perceive this to have far-reaching consequences. First, people complained about ailment and death of domestic animals, especially of cattle and chicken, caused by the degradation of land and pastures through poisonous chemicals from the wind-blown spray. Second, in a study on the effect of the project on environmental conservation, Owiyo et al. (2014) observe a general trend of reduced crop production because of increasing land degradation in the course of the implementation of the project. A village elder told us that the trees do not bear fruits anymore, or they just “shrivel and die”, wondering if Dominion Farms sprays a specific “medicine to prevent fruits from growing”. But also effects on human health are reported. People lamented an increasing number of women with miscarriages due to aerial spraying by the company.⁵⁴

⁵⁴ According to van Heukelom, Burgess contends that he does spray herbicides and fertiliser, but not in close proximity of working labourers (2013: 198f.). Burgess further denies to have sprayed DDT (a chemical used to combat malaria), although local people are convinced he did. According to different people, the number of mosquitoes has drastically decreased since the aerial spraying.

The spraying also interrupts the ecology of the aquatic environment, a local environmentalist knows. For this local man, who is fighting for conservation of the Yala Swamp, the ecological degradation caused by the company (and by the local people by burning papyrus) is used as a powerful, internationally backed discourse for justifying conservation claims. These claims include plans such as fencing off the whole wetland, further excluding local communities from access to the swamp.⁵⁵

Other locally perceived ecological impacts pertain changes caused by the newly built infrastructure. As noted in when discussing ecological specificities of the swamp (5.2.), one main function of the Yala Swamp was to regulate the water flow by catching the inflowing waters during the wet season and sustaining the water flow in the dry season. The construction of the weir and the diversion of the river Yala led to changed flooding patterns, to which the swamp cannot react anymore because of its reclamation/drainage. Many people perceive Burgess as the person in charge of the changes related to the newly constructed infrastructure, which is why he is perceived to have great power over their ancestral landscape.

7.4.2. A Moody Investor and His Technological Power

According to various people, Calvin Burgess was present in the area for approximately one week during our research stay. When a helicopter flew over our homestead on Easter weekend, our host mother immediately stated that "it's the owner of Dominion, he always comes with the helicopter". Soon rumours started spreading in the villages that Burgess was in the area.

During the implementation stage, Burgess was nicknamed *koth wuon chiemo* by the local people, translated as the 'father of food'. However, initial perceptions of Burgess as a man bringing an end to hunger and poverty have widely changed over the years and in the course of the described events. When the news of Burgess' presence spread in the villages at the time of research, we were told that the atmosphere in the villages had become tense and precarious.

At the time of research, Burgess was generally perceived as a very powerful and rich person. Most people are aware that Burgess has connections to the highest political leaders of Kenya, and that the project required a tremendous investment of capital. However, it is not only his political and economic power that defines his appearance

⁵⁵ See Schubiger (2015) for more about discussions on environmental protection of the area.

among the local people. When people talked about Burgess, he was often described as "moody", a man with an unpredictable manner. One man, for example, said about Burgess:

"Calvin is just somebody, he can just wake very early in the morning and tell the police 'Hey guys, I don't want to see those people down there. Take the tractor and wipe out everything down there'".

Various people reported of unforeseen events when Burgess visited the area, what he does a couple of times per year. People recounted that when Burgess comes, often workers are laid off, which explains the tense atmosphere among the local people. Furthermore the boundaries of the community land, which they received as compensation and is adjacent to the farm, change. According to local people, they were told where to cultivate land for their own subsistence. But suddenly, Burgess changed his mind and told them to cultivate their crops on the other side:

"It was a community land. But after that he claimed that that was not a part of the community land. He just said 'No you guys, you have gone so far, so I don't want you on this side, I want you on the other side.' But at first he said 'you just work here, from here up to there. I'll have nothing with anybody.' But if you come on this side, I will take some actions. So after people working and working hard Calvin just came and said 'hey, I don't want to see you up there. Just come on this side'".

These events are perceived as unforeseeable by the local community, and highlight their perception of Burgess as a moody investor with an ever-changing mind. This also explains why they do not perceive the compensated community land as their land, although it is land located within the swamp. The chief emphasised that the community land is inside "his [Burgess'] land" and that "he is the person who has the authority". The perception is that it is only a matter of time until Burgess deprives them of the community land as well. This power is confirmed by Dominion's manager, who, with regards to another part of the leased land, on which local people cut grass for their cattle, stated that "it takes us two hours to put it back into useable land. But for the time, let it help the community with their cattle".

Further, people said that when Burgess arrives, people might lose their fields or pastures due to floods. This is strongly related to the technological power he holds, especially with the construction of the weir. On the one hand, some people already sense a power imbalance when they observe that, in contrast to the communities, Burgess

does not have to rely on precipitations because he built a weir. But in the perception of some, with the weir he not only has the power to control his yields, he also has the power to take away more land from the local people. A young man expressed a widespread narrative: "If he wants to grab something from the community, he just floods the land". Effectively, there have been disputed incidents of flooding of land in the course of heavy rainfalls in 2007. Burgess blames the heavy rainfalls (van Heukelom 2013), calling the associated floods "basically a thousand-year flood"⁵⁶. Locally, however, Burgess and the weir are deemed responsible. The heavy rain, which cannot escape into the swamp anymore, backed up and flooded the fields (Pearce 2013: 94).

It becomes clear that impacts of the irrigation infrastructure not only poses economic costs, but socio-cultural costs have to be integrated as well (Haller 2010:17). As outlined in this chapter, the project affects their livelihood linked to the swamp. The different economic and subsistence activities used to spread risks (cf. Adams 2002). The irrigation systems, however, make the local people more vulnerable to human-induced climate variability.

A further powerful strategy attributed to Burgess is the handling of people who oppose the project. According to community members, Burgess employs the children of those who "make noise" in order to avoid further opposition. The village elders told us that he identified the people who were leading demonstrations against the company and employed their children, which they perceive as very cunning of the investor.

7.5. Discussion: Deterioration of Resilience Capacities

As the local communities have lost access to vital resources, it directly impacted their food security and income earning potential, and indirectly impacted their social relations and local institutions. In this concluding subchapter, I argue that these impacts lead to increasing vulnerability of many local livelihoods, while at the same time decreasing their resilience capacity to external shocks. As Haller shows with regards to climate variability, economic diversification based on a combination of private and common property systems enhance resilience capacity for external shocks that reduce availability of livelihood resources (Haller 2015: 168)

The immediate negative impacts experienced relate to the loss of access to the swampland and the limited ability to access such a resource elsewhere. The loss of the

⁵⁶ GRAIN. Good Fortune Part 4.<<https://www.youtube.com/watch?v=WW5UYMzVgHY>> (2:40).

swamp entails reduced food security and a less diversified diet, which in turn leads to nutritional declines. This especially concerns women, because they perceive themselves responsible for food supply. Furthermore, the loss of grazing land in the swamp implicates a sharp decline in cattle numbers. This also contributes to nutritional declines due to lowered milk and meat production in the area. But also the loss of cattle as a capital reserve has far-reaching impacts. On the one hand, many people find it hard to meet school fees without cattle, and the loss of cattle is leading to increasing venality of social relations. As a consequence, the future is discounted at a higher rate and immediate cash generation to buy basic domestic needs and food has become a priority over future needs, such as school fees. As De Schutter (2010: 4) points out, however, that ensuring the right to food also includes the economic accessibility to food, meaning that food must be affordable or accessible without compromising other basic needs such as education fees or medical care. The loss of this form of insurance that could be held back for future needs means the loss of an asset, which enhanced resilience also in terms of monetary needs.

Although communities received some community land in the swamp to cultivate as compensation for the loss of the swamp, with a size of 450 acres on the Alego side, people complained that it was a relatively small part compared to what they were able to access and benefit from before. Discussion of the management of the community land showed that vulnerability of already vulnerable people has further increased, whereas it has become easier for more wealthy and physically fit people to acquire land, since old institutions that regulated access to the swamp before Dominion Farms reclaimed the land are not in place anymore. Furthermore, the bargaining power of the chief has decreased, since he has lost his redistributive function due to the subject to venality of social relations. Since people with higher cash capacity can acquire land more easily and from outside the area, his role of redistributing land to vulnerable people has become weakened. Although the 'invention' of chiefs under colonial rule and the associated institutional change increased individual powers of chiefs, it seems that the current chief of South Central Alego location at the time of research assumed redistributive and coordinating functions of the pre-colonial *ruoth* and the council of elders. To my knowledge, he did not exploit his power in order to enrich himself.

Furthermore, gains of employment do not appear to accrue substantially to people who have been affected by restricted access to the swamp. On the one hand, only a

minority of the local people is employed and access is perceived as rather difficult. On the other hand, wages only cover immediate consumption needs and cannot substitute prior benefits derived from the swamp.

Moreover, ecological impacts from aerial spraying and Dominion Farms' irrigation scheme, in confluence with the unpredictability of how Burgess will use his technological power, makes local people vulnerable to the investor's unpredictable shocks, while increasing his bargaining power. With the loss of diversification of livelihood strategies, there is almost no means left by which risks can be spread.

Of course, not all people are affected to the same extent. Those who are employed, and those with high economic capacity and physical fitness might even profit from the situation when land can be bought and is not subject to the chief's redistributive power anymore. Further, the bargaining power of the chief, although also a governmental representative, seems to be decreasing because he is losing his redistributive power.

To conclude, loss of access to the swamp is resulting in low capacity to diversify livelihood strategies, which makes households vulnerable to external shocks that reduce availability of livelihood resources (cf. Schoneveld et al. 2011). The low capacity to diversify livelihood strategies leads to higher discount rates of the distant future, since cash generation is progressively the only option remaining to meet subsistence needs as well as other economic necessities. Therefore, cash is often spent rather immediately, and it becomes difficult to adapt or successfully react to future needs. Recalling Haller (forthcoming 2016), the fragmentation of the cultural landscape ecosystem through *de facto* privatisation indeed undermines resilience capacity of local livelihoods, and is reflected in the chief's statement that "the swamp and this people is just one, its life. Once you delink them to the swamp you kill all of them".

8 Responses, Strategies, and the Future

Despite all negative impacts, people do not perceive themselves as entirely powerless, on the contrary. A variety of strategies are used to cope with the ever-changing situation. These range from violent protests, over legal approaches to weapons of the weak (cf. Scott 1985), in order to try to undermine Burgess' repertoires of domination.⁵⁷ It is important to focus on these reactions to the project in order to identify new options for bottom-up institution building (8.4.).

8.1. Appropriation of Land

In spite of various negative impacts and a certain frustration among local people, strategies have emerged in order to cope with some of the effects the company brought with it. One subversive strategy applied at the time of research was the appropriation of parts of the land leased by Dominion Farms. At the time of research, some locals, mostly people with livestock, had started encroaching on a part of Dominion's land. The appropriated land is located right behind the community land, which was allocated to the Alego community as compensation for the resource loss by the company (see image 2). Dominion Farms had not yet put the land into use at the time of research, because it was set aside for future use. Therefore, people decided to bring their cattle on that land for grazing, since other pastures in comparable dimensions are non-existent in the region.

People referred to the land as their “grazing land”. On the eastern side, adjacent to the community land, the grazing land is separated from the community land by a dyke, so the cattle cannot easily encroach on the cultivated community land. However, a few cultivated plots could also be seen on the acquired grazing land. These plots are fenced-off with wood sticks to prevent the cattle from encroaching on farms and eating the growing crops. Some parts of the grazing land are very bushy, so people collect firewood on the grazing land as well.

Furthermore, rules and regulations concerning the management of cattle are starting to emerge on the appropriated grazing land. During our research stay, men bringing their cattle on the grazing land were discussing how to manage the cattle on the land.

⁵⁷ I focus on strategies that were applied during the time of research, a decade after the implementation of the project. Therefore, I will not discuss the violent protests, which took place a couple of years before this research was conducted.

They told us that this is important because they have to pass through the whole community land, which is cultivated with crops, in order to reach the grazing land. This turned out to be problematic because the paths are very narrow and the cattle would eat the growing crops, which leads to further conflicts in an already tense environment. Subsequently, the crops surrounding both sides of the path leading through the community land to the grazing land had been fenced-off with wood sticks, in order to prevent this specific problem. Not all paths are fenced-off, so it is clear on which path to bring the cattle to the grazing land. Another provisional decision was that community members alternate with staying on the grazing land to guard the cattle. This was decided so they do not have to cross the community land twice a day, additionally to the fact that it requires quite a long walk to reach the grazing land. At the time of research, the involved men decided that the cattle would stay on the grazing land throughout the growing season, and are to be taken on the community land after harvest to graze there. This shows a still seasonally oscillating land use. The community land, which is individually cultivated for crops, becomes a grazing commons after harvest (cf. 7.2.).



Image 2: The appropriated grazing land adjacent to the community land (Google Earth).

The encroachment of land is legitimised by claims that Burgess is not able to manage such a vast amount of land. The reasoning upon which this perspective bases lies in the non-use of the land. As mentioned beforehand, only approximately half of the leased 6,900 ha were being used at the time of research, and on much of the land nothing is cultivated yet. Drawing on Poteete and Ribot's (2011) discussion of '*Repertoires of Domination*', the acquisition of such a vast amount of land by basically one person, the investor, is locally perceived as a domination of Burgess vis-à-vis the local people. I do not claim that it is Burgess' explicit aim to dominate the local people, but rather that the perception of the people we spoke to is that Burgess is maintaining his dominance by keeping 'his shamba' unused, instead of redistributing it to the people who would urgently need it to meet basic needs. By encroaching on the land that Burgess leased, the people are undermining his repertoires of domination by applying what Scott calls 'weapons of the weak' (cf. Scott 1985).

Scott (1985) discusses "everyday forms of resistance", referring to resistance of rhetorical nature, but also specific activities including "non-compliance with rules, slander, illegal night-harvesting or hunting inside reserved areas" (1985: 5). Specific forms of resistance include the described appropriation of land, but also night-harvesting. One man told us that people would graze their cattle at night because the boundaries of the farm are unclear.⁵⁸ In order not to be caught when intentionally or inadvertent encroaching on Dominion's land, some people prefer to graze their cattle in the dark.

Rather rhetorical forms of resistance are claims that Burgess is not able to manage such an amount of land. The chief stated that Burgess cannot even manage the small part on which he is currently growing rice, and told us that "you can't expect to go further if the one you already have you can't manage it well". That he is not able to manage the land well is explained by the fact that he is not using the amount he leased. A villager complained, "even if you go down there, up to now, he has done nothing there. The land is just there. It is just bushy there, he has done nothing there". There is quite some incomprehension to the fact that an individual acquires a huge amount of land to then "not even plough the whole of his own [land]", as the villager continued. It seems that, for local people, it is rather incomprehensible that an investor acquires land based on a discourse of idle, unused land, to then leave it unused himself.

⁵⁸ See also Projects for Peace Dominion Farms. <<https://www.youtube.com/watch?v=DrITMEcOY30>>.

8.2. Women's Groups

Various further strategies are found to cope with the current situation, which shows that people do not necessarily perceive themselves as entirely powerless in the current situation vis-à-vis the investor. Former employees have started building their own small businesses from the money earned with Dominion, hoping to earn some income by this means. Furthermore, organisation in groups has been common for quite some time among Luo communities (Shipton 1989), and, according to information we received, was already a common way of organisation before the arrival of Dominion Farms. However, the focus of some of these groups has changed with the project. For example, most women we talked to are in community-based organisations (CBO). Although these did not necessarily emerge with the coming of the investor, they have been adapted to emerging impacts of the project.

The focus group discussion with women included women from different women's groups. A woman explained: "We sat down as women and saw that if we are together, then we can always bring our problems and see how to solve them, rather than doing something alone". This explains why most women we encountered were part of a women's group, most of which act as self-help organisations that offer loans to women through table banking. This provides a way for accessing and offering loans without being dependent on microfinance organisations. When the women meet in their respective groups, they put a certain share on the table. Someone, who needs the money can borrow it and return it after a certain amount of time. The date and amount of the loan are noted down, as well as how the person is going to refund it. As the name women's groups indicates, men are excluded. The women explained to us that they feel they have certain women-specific problems, such as paying school fees and food, for which they cannot rely on the husband, because "sometimes men claim that they don't have money. But as woman, you have to do something to make sure you have some little money as you wait for your husband to add you". The little cash they share is either from market sales, or some told us that they hide some cash, which they receive from their husband in order to buy food on the market.

The women told us that none of them had a shamba on the community land, and that the money from the group is therefore often used to buy food. Furthermore, it is also often used to pay school fees of children of women in the group. These two issues, food and school fees, were mentioned as constituting the biggest problems, additionally to

being women-specific issues. The groups also have an important redistributive function. For example, we were told that if someone from the group is infected with HIV, Luo culture requires that when visiting this person, the visitor has to bring something along. If the visitor is not able to afford e.g. food to bring along, the money from the group comes in. Since this “present” does not have to be refunded, these statements suggest that most vulnerable are cared for within the groups, therefore fulfilling the basic guidelines of a moral economy (see 5.1.1.). Therefore, people engaged in such groups have the possibility of improving the asset base of households. Although this does not accrue with benefits derived from the swamp prior to the investment, it nevertheless provides them with some regular cash income which could be crucial for future unexpected costs (cf. Molyneux et al. 2007).

It seems that one of the most marginalised groups of people are older people. They have lost access to land and associated resources for subsistence and other needs, and, according to my observations, many of them are not integrated into formal wage employment to an extent that would be able to substitute their livelihood needs. Furthermore, as far as I could observe, they are not included in CBO to the same extent as the younger generations.

8.3. Ambivalences, or Do Not Compromise Your Desires

Albeit the discussed impacts, no one we spoke to expressed the desire for Dominion to leave. After speaking about life had become so much harder since the company leased the swamp and the overwhelming negative impacts, in the end most people added that they by no means want the company to leave the region, almost as if they wanted to make sure we did not understand their critique towards Dominion wrong. For instance, towards the end of an interview with a former employee of Dominion, who had been speaking rather adverse about Dominion Farms, their working conditions, and the impacts they brought about, he added: "But I don't wish Dominion to leave. No! I am not praying for it to leave but I am praying for some changes there". The changes he refers to are wishes for yet another company in the region so Dominion Farms does not have monopolised power anymore. This, he hopes, would bring more wage employment and better salaries due to emerging "healthy competition".

These ambivalent attitudes towards a LSLA can also be observed in other cases as for example towards the Addax Bioenergy Project in Sierra Leone (cf. Käser 2014 and

Marfurt 2016). This shows that there are not only heterogeneous actors who perceive LSLA differently, but that the perception of an individual can also move on a continuum, rather than having either a positive or negative attitude towards the investment.

On the one hand, it could be argued that this ambivalence is prevalent because neoliberal capitalism is disguised in concepts called development and modernity, which is deeply inscribed in the people since colonial times, which leads to continuous hope in this buzzword. However, instead of dismissing the local people as naïve and still not aware of the risks and impacts alleged development interventions entail, De Vries (2007) offers another critical approach towards these hopes. As discussed in 6.3., De Vries argues that the development apparatus acts as a desiring machine, generating specific desires it needs in order to perpetuate itself, which is why the people have actually been taught to desire the things the promises entail. However, as in the case of Dominion Farms, a disjuncture between promises made and actual practice exists. Abandoning the notion of development and its promises at this point, according to de Vries, "signifies the betrayal of its promise" (2007: 26-27). Instead of only victimising the people as passive victimised subjects, De Vries pleads for taking the perspective of those refusing to subordinate themselves, but who "persist in and act upon their desire for development" (2007: 41) and hold the responsible people, De Vries refers to politicians and the state, accountable for their unfulfilled promises. In the case of LSLA, the investor can be held accountable as well. Local people were, as a village elder puts it, "deceived" by Dominion Farms and its representatives, because they made promises they never fulfilled. We were told several times that the people would like Dominion to stay, but that they have to tell the people what the community will benefit, and that it is their duty to fulfil the promises they made (cf. Oongo 2011: 4). "If he had kept his promises, I think it would have been a good thing", was a statement we often heard. Thus, not compromising the desires but insisting on benefits can also indicate a refusal of betrayal (De Vries 2007), and an insistence on one's 'rightful share' (Ferguson 2015), or maybe even as counter-hegemonic discourse contesting neoliberal globalisation (Prempeh 2006: 88).

8.4. What Is Yet to Come?

As the previous subchapter has shown, a majority of the people does not want Dominion Farms to retreat from the area. One reason for this is stated by a local man who fears a

de facto open access situation if Dominion Farms would just leave the site: "Even if leave, people will scramble for that land, people will kill each other". However, it is not merely the lack of property rights that lead to this situation; much more, processes of institutional change lead to the current situation of local institutions, and property and access rights regulated within these, that are not working. In the case of the Yala Swamp and Dominion Farms, the process of institutional change can be sketched when looking at the current situation on the community land. Whereas previously, the chief held a redistributive function based on principles of a moral economy, his redistributive function has been undermined by the *de facto* privatisation of the swamp by Dominion Farms and the fragmentation of the cultural landscape ecosystem (cf. Haller forthcoming 2016), which leads to a situation in which vulnerable groups such as widows and older people are not guaranteed their "rightful share" (Ferguson 2015) of the resource anymore.

In order for local institutions to work after processes of institutional change, Chabwela and Haller (2010) argue that a revitalisation or substitution of these institutions through local processes is necessary, in which new regulations should be agreed upon by heterogeneous actors. In this constitutional process, local resource users should receive a sense of ownership (ibid.; see also Haller et al. 2015 on *constitutionality*). Yet as long there is a twofold presence-absence of the state and the company, which allows outside users to claim access to the community land, local rules and regulations are undermined (ibid). Recalling Ostrom's Design Principles (1990: 90-102), this means that group boundaries of who is allowed to access and benefit from the resource is not clearly defined. The chief claimed that the more time passes, the more difficult it gets to "heal and correct" the current situation, as he put it. The county representative, the village elders, as well as the assistant chief and the chief plead for a bottom-up approach, in which the views of local affected people must finally be heard. This also implies that local institutions must effectively be legally recognised on a county, provincial, and national level. Chabwela and Haller conclude that it is necessary to "create a platform on which all the stakeholders can organise and present their demands, and where they can be recognised as owners of the governance process".

A certain danger exists of a new wave of resource loss through conservation efforts and 'green grabbing' (Fairhead et al. 2012) by local environmentalists. But future anxiety also concerns future generations. One man shared his concerns concerning the

future of his sons: “So they come to work on this land for 50 years, Dominion. And they have just worked, I think this is their 10th year. So they still have the remaining 40 years. So just imagine in 40 years time, if somebody can’t work with you, how are you going to survive? Shaun will have nothing to do. Henry will have nothing to do. Unless they have some jobs.” This points to the already discussed loss of diversification in livelihood strategies, which was crucial for resilience of local people. Therefore, the persistence of several people insisting on Dominion Farm’s fulfilment of the plethora of pledges in the initial stage of the investment is comprehensible.

9 Discussion

Empirical findings outlined in this thesis have shown the complexity of struggles over land in the case of the Dominion Farms project in the Yala Swamp in western Kenya from the perspective of heterogeneous affected local people. This thesis has especially focused on emic perceptions of the value of the Yala Swamp, in order to then point out how the acquisition of parts of the swamp by a foreign investor was perceived in terms of various aspects. In this final discussion, I would like to take up the empirical findings in order to test my initial hypothesis outlined in chapter 3.1., as well as embed the hypothesis in Ensminger's model of institutional change.

When Dominion Farms leased 6,900ha of the Yala Swamp in 2003, this was prior to the food, finance, and energy crises, which emerged in 2005 and reached its peak in 2009. Driven by religious motivations intertwined with a development discourse, Calvin Burgess aimed to alleviate Luo people out of hunger and poverty by growing rice on a large-scale and creating employment opportunities, which is characteristic of neoliberal development discourses (see chapter 2.3.). In order for Burgess to effectively lease 40% of the swampland, a facilitating legal basis was necessary. Schubiger (2015) thoroughly discusses this aspect when analysing the vertical level of this land deal. As outlined in chapter 4.1., Kenya has a long history of irregular and illegal allocation of land since colonisation by the British, continuing until today (cf. Klopp 2000). With the imposition of colonial rule, control over land shifted from local resource users to the colonial government, and on to the post-colonial government after independence in 1963. With the Swynnerton Plan in 1954, the colonial government attempted to individualise Kenya's land based on the European freehold model. The post-independent government of Jomo Kenyatta continued with the implementation of the Swynnerton Plan, and the Yala Swamp, classified as a *native reserve* under colonial rule, was now classified as 'trust land', meaning that the land is held in trust by the County Councils on behalf of local communities, as long as it remains un-adjudicated and unregistered. This created a situation of *legal pluralism* of customary and statutory law, in which different regulations concerning resource control provide various formal and informal legal frameworks (cf. Haller 2013). Furthermore, the classification as 'trust land' was crucial for providing Dominion Farms with a legal basis to acquire land in the swamp, as Schubiger (2015) points out. But also national brokers were crucial in enabling the land deal, an aspect several authors have pointed out to in discussions on LSLA (e.g. Borrás et

al. 2010b; Edelman 2013; Cotula 2013). Schubiger (2015) further carefully analyses how the investor and representatives of the project used the narrative of 'idle' land, reminding of colonial discourses of 'vacant land' (cf. Cotula 2013), in order to legitimise the acquisition of land.

However, while the British were colonising Kenya, people surrounding the swamp had already been benefitting from the swamp's resources, and had transformed the swamp into a vital *cultural landscape ecosystem* (cf. Haller forthcoming 2016). Despite its classification as 'trust land' and therefore ultimately as state property, continuous use of the swamp was possible through the presence-absence of the state (Haller 2013), whereby the state is effectively absent concerning management of the CPR, although it claims ownership over the resource. The swamp and its resources were used for various means prior to the arrival of Dominion Farms, such as agriculture, grazing, fishing, water collection and building materials. Many of these resources constitute CPR, and were vital in providing subsistence for local livelihoods. The sales of surplus fish, grains and vegetables enabled a monetary income, which was necessary since money and forced taxes had been introduced under colonial rule. Furthermore, cash shortages could be offset with the sale of surplus harvest. Cattle was rather valued as a long-term capital reserve, with which especially school fees were paid. Hence, additionally to covering subsistence needs, the swamp also provided access to monetary income for immediate and future needs, and therefore was essential for the resilience capacity of local livelihoods. Recalling Chambers and Conway's definition of resilience (cited in Cousins and Scoones 2010: 42), the Yala Swamp enabled a combination of a range of assets, which further enabled multiple and diverse livelihoods that were able to offset shortages.

The swamp *per se*, however, did not build resilience capacity. Access to the swamp had to be institutionally mediated in order for local people to benefit from *access* to the resource (cf. Ribot and Peluso 2003; Cousins and Scoones 2010; Agrawal 2010). Access was based on membership to a previous *oganda*, namely Alego. Therefore, access was regulated on a communal basis, but harvests such as fish or papyrus were owned on an individual basis. Whereas access to pastures was regulated on a communal basis, access to land for cultivation rather resembled a private property regime, since crops were planted and harvested on an individual or household basis. These findings correspond with Haller's (2015) observation that a combination of common and private property

regimes enables flexible resource use of interlinked CPR, and thus contributes to resilience capacity of local livelihoods. However, findings also reveal that the chief had a crucial redistributive function when people abandoned their farmland and in case of conflicts over land, which implicates that institutional mediation to land was interlinked with CPR institutions as well. The chief held the authority to redistribute land to vulnerable people such as widows, for whom it was more difficult to access land, and in this way guaranteed a minimum “rightful share” (Ferguson 2015) to all members of his community, based on principles of a moral economy (Scott 1976).

The outlined analysis builds the basis for my hypothesis. The Yala Swamp consists of several CPR, which built the major livelihood basis for local communities. Livelihood strategies could be diversified through the combination of assets, especially in case of shortages or other needs. Further, local institutions were vital in mediating access to these CPR, especially also to ensure more vulnerable groups their “rightful share” in times of need. Since pre-colonial times, continuous use of the CPR was possible, and only *de facto* privatisation with the coming of Dominion Farms effectively excluded local people from accessing the resource. But why did local people welcome the investment, if the swamp was such a vital resource for their livelihoods and resilience capacity?

The warm welcoming of the investor is related to the ethnicised discourse of development and desires for development, as well as religious ideologies represented by the investor. Chapter 6 shows how Calvin Burgess, locally labelled as the *White Man*, approached the local community with a local priest as broker, and approached local communities via church channels. This illustrates the role of local brokers, additionally to national brokers on a higher political level, in order to gain local acceptance. People in the region consider themselves very religious and “like the word of God”, which from their perspective explains why they believed Burgess and other company representatives, when they were preaching of bringing a ‘better life’ based on development discourses. Moreover, western Kenya has been marginally targeted by investments since independence in 1963. Through labour migration, many have seen how investments create jobs in other parts of Kenya. The ethnicised discourse of development – Luo blaming Kikuyu politicians for not investing in the Luo-dominated region – dates back to the murder of Luo elder Mboya after independence. Therefore, many warmly welcomed the investment, feeling it was their time to finally enjoy the fruits of development. However, promises that fuelled expectations but were not

fulfilled, as well as an increase in the scale of the land leased, progressively led to frustration among local people.

In order to further test my hypothesis, I will analyse the process of institutional change occurring through the investment and the consequent increase in relative prices based on the graphic below, which is adapted to Ensminger’s model of institutional change.

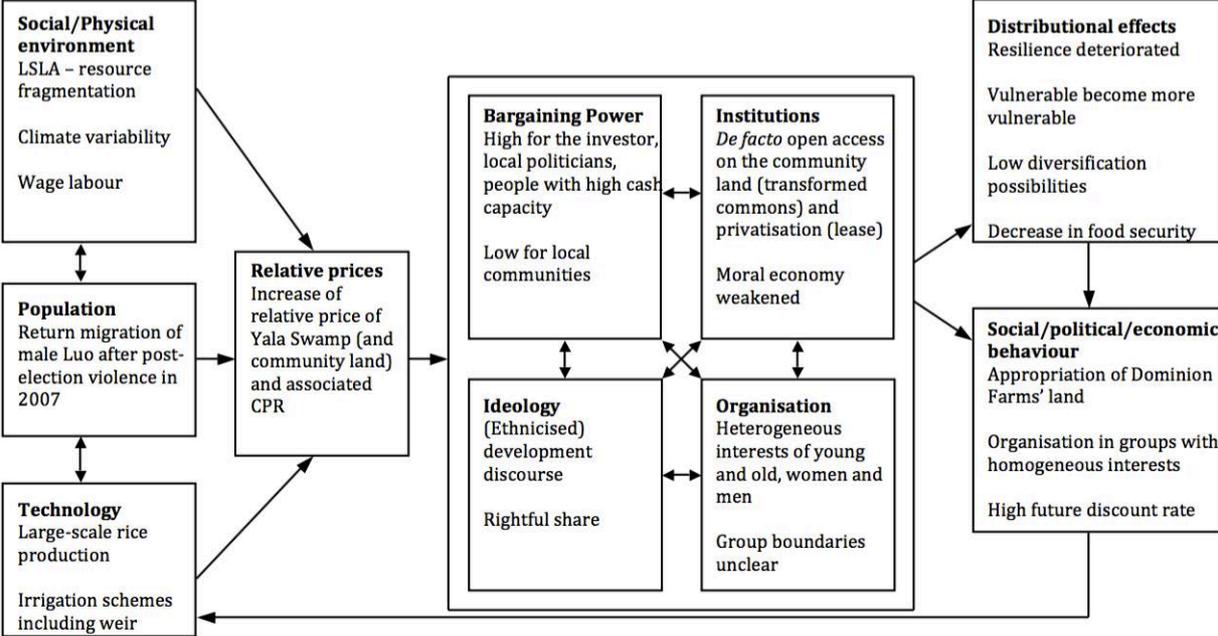


Figure 3: Overview of process of institutional change including external and internal factors according to Ensminger’s model (1992). Drawn by the author.

The coming of the investor through religious and development discourses increased the relative price of the wetland. Equipped with technological power by means of irrigate schemes, as well as financial capital, bargaining power of the investor was high. The *de facto* privatisation of 6,900ha of the Yala Swamp led to resource fragmentation of the cultural landscape ecosystem, with only a small amount, 450 acres community land as compensation, left for previous local resource users. Mainly male Luo, who had returned to their villages after post-election violence of 2007, were attracted by the possibility of working at home, since other wage labour in the region is scarce. But the swamp was also crucial for ecological changes, acting as a buffer for climate variability. According to Ensminger’s model, all these external changes lead to an increase in the relative price of the wetland and associated CPR.

As a consequence of the physical and institutional enclosure (Peluso and Lund 2011) of the wetland, access to the swamp and associated resources has massively declined, as findings in chapter 7 reveal, and led to a change in the institutional setting. As people have been deprived of important pastures, the number of cattle has massively decreased. Subsequently, this has led to a loss of a capital reserve and to increasing venality of social relations and invisibility of wealth, which is undermining the chief's redistributive function, and therefore decisively weakening his *bargaining power*. This becomes especially visible on the community land, which local communities received as one-time compensation for the resource loss. The presence-absence of the investor as manager of the community land led to a situation in which people rushed to the land and acquired it, leaving vulnerable groups such as old people and physically disabled people landless. Some of the people, who first acquired land, leased or sold it after preparing it, making access to the land possible for people from outside the area. Considerable insecurity among local people exists concerning who actually received the community land as compensation; some refer to the sublocation, others to the location. As a consequence of these unclear boundaries of resource users (cf. Ostrom's Design Principles in chapter 2.4.) and the possibility of obtaining land through cash, the *bargaining power* of people with cash capacity has increased. Through this *de facto* open access situation and partial privatisation through leases, prior principles of a moral economy are undermined and solidarity is perceived to be in danger. Furthermore, the high bargaining power of the investor, which is especially perceived to come from his technological power, which he uses in an unpredictable manner, further decreases the bargaining power of previous local resource users.

This changed institutional setting leads to a change in distributional affects and local behaviour on a social, political, and economic level, as can be seen in Figure 3. The described internal changes lead to a situation in which a high inequality in bargaining power exists, as local resource users have lost the power to make decisions concerning resource access and use. Therefore, vulnerable groups who were granted access to the swamp cannot claim their rightful share anymore, because the chief's redistributive function is undermined. As a result, diversification of livelihood strategies is impeded, leading to more food insecurity and a situation of resilience grabbing, especially in terms of cash. The future is now discounted at a higher rate, meaning that cash generation to cover immediate needs is prioritised over future needs, since no other possibilities to

cover subsistence and other economic needs exist (cf. Ostrom 1990, Haller 1999). But also food security is perceived to have decreased. This especially affects women, who are responsible for meeting subsistence needs, such as food. Here, it becomes clear that not all affected people are vulnerable to the same extent, as Agrawal (2010: 177) points out, but that vulnerability is also influenced by structural characteristics such as gender or age. Furthermore, heterogeneous interests exist. Whereas men encountered were more concerned with getting jobs and land for cattle, women tended to be concerned with deriving income for food and school fees. Haller (2013) has pointed out that heterogeneous interests can make local collective action difficult.

Nevertheless, chapter 8 has shown that local people are not entirely powerless, but that reactions to impacts also include subversive strategies. On the one hand, by applying what Scott (1985) terms *weapons of the weak*, local people have started appropriating land that is leased but not yet used by Dominion Farms, in order to graze their cattle on it. Furthermore, women included in women's groups draw on principles of a moral economy and make sure that the most vulnerable among themselves receive their rightful share (Ferguson 2015). These two examples show how some people organise themselves based on rather homogeneous interests, in order to develop a strategy to encounter the impacts they feel most affected of, and that collective action is not entirely absent despite heterogeneous interests.

If people can be absorbed into wage labour, they can directly benefit from an income, which might be able to compensate the resource loss. Indeed, wage employment can bring direct benefits, and people who are able to directly benefit from employment are generally grateful. However, access to employment is perceived as rather difficult. According to local people, of the 600 employees, the 200, which are permanently employed, are not from the affected area. The remaining 400 are casually employed and hence can only benefit temporarily from income through employment. Furthermore, with a wage of 150 KSh per day, wages are extremely low. Bearing in mind the relation of people who directly benefitted from the swamp and who can directly benefit from employment, a big disproportion exists. This disproportion confirms arguments made by authors from a labour perspective (Li 2011; Baird 2011; Peters 2013a; Ferguson 2015). From a Marxist perspective, Luo communities surrounding the swamp have been forcefully separated by their means of production via *accumulation by dispossession* (Harvey 2003).

The outlined analysis of institutional change confirms my hypothesis. The model shows how the LSLA of the Yala Swamp transformed the local institutional setting, resulting in a situation in which access to the wetland and associated CPR is not granted for community members anymore, whereas job opportunities still remain scarce, despite the investment. Only a minority of affected people benefits from employment opportunities, creating a surplus population, which cannot be integrated into capitalist production (Li 2011; Baird 2011; Peters 2013a; Ferguson 2015). As a distributional affect, the resilience of local livelihoods is deteriorated, since livelihood diversification possibilities are very low and wage labour, which is obviously lacking, is the only option left for generating income to meet subsistence and economic needs. Recalling the title of this thesis, a rather simplified conclusion could be that 'Dominion has the biggest shamba now'.

In spite of adverse impacts on livelihoods of a majority of local people affected by the resource loss, people want Dominion Farms to stay. However, recalling De Vries (2007), I argue that this is not because they still have naïve hope in the concept of development. I argue that this is a further strategy to undermine Burgess' *repertoires of domination* (Poteete and Ribot 2011) in that it is the refusal of betrayal and an insistence on their rightful share.

10 Conclusion

In 2003, Dominion Farms Ltd leased 6,900 ha of the Yala Swamp in western Kenya for 45 years, in order to grow rice based on the discourse to ensure food security in the region. This thesis, embedded in the interdisciplinary research project *Ethnography of Land Deals*, builds on a three-month research in the affected area, and discusses heterogeneous local perspectives on the implementation process and impacts of the land deal, as well as strategies to handle impacts.

Due to ethnicised discourses of development and the investor's approach through church channels, the project was warmly welcomed in the region. However, by restricting access to the swamp and the simultaneous inability to absorb a majority of people into wage labour, there has been a drastic decrease in capacity to diversify livelihood strategies, resulting in a deterioration of resilience capacity and leading to a situation in which cash generation is the only remaining option to meet livelihood needs. Vulnerable groups of people are affected even more by this resource loss, because a transformed institutional setting does not guarantee them a minimum "rightful share" anymore. But findings also reveal that different people have developed different strategies to cope with impacts: land of the investor has been appropriated in order to graze cattle on it, and women included in women's groups are guaranteeing a rightful share among themselves in order to enable the most vulnerable to meet basic livelihood needs. Further, by insisting on fulfilment of the promises made by the investor and holding him accountable for his unfulfilled promises, local people are refusing to be victimised subjects.

Drawing back on the theoretical approaches to LSLA, this case study has shown that land deals cannot merely be reduced to their size or economic value. In order to adequately assess local impacts, a careful analysis of the specific local context and its political economy of resource use is necessary to understand local perceptions of a land deal and its impacts. However, an analysis of the vertical level is also needed to complement the picture and derive an in-depth understanding of the phenomenon of LSLA. For a vertical analysis of the Dominion Farms project, I recommend reading Schubiger's (2015) thesis. With this ethnography of a land deal, I hope to have provided a space for voices and lifeworlds of locally affected people.

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