



Accountability in Africa's land rush: what role for legal empowerment?

Emily Polack, Lorenzo Cotula and Muriel Côte



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80-86 Gray's Inn Road
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United Kingdom
Email: newbooks@iied.org
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Cover photo: Women head out to harvest a new Nigerian hybrid cassava, a staple food, given out by a micro-loan programme in the Democratic Republic of the Congo.

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Preface

Commercial interest in land has been increasing in recent years. While the trend is global, Africa has been centre stage to this new wave of land acquisitions. Agricultural investments can contribute to economic development and poverty reduction. But evidence suggests that many investments have failed to live up to expectations. In many cases, the deals have left villagers worse off than they would have been without the investment. Many deals are happening in developing countries where food security challenges are acute, and land tenure systems insecure.

There is a growing body of evidence on the scale, geography, drivers, features and socio-economic outcomes of large-scale land acquisitions. There is also broad agreement that improving accountability is critical in ensuring that investment processes respond to local aspirations. But few studies have specifically explored constraints and opportunities in the accountability of public authorities involved with large-scale land acquisitions. Do legal frameworks provide effective avenues for people to have their voices heard? What strategies are villagers using to respond to large-scale land acquisitions – and what difference do these strategies make?

This report, commissioned by Canada's International Development Research Centre (IDRC) and prepared by the International Institute for Environment and Development (IIED), is a step towards answering these questions. The report takes stock of evidence about opportunities and challenges affecting the accountability of public authorities in large-scale land acquisitions, and about the role of legal empowerment as a citizen-driven pathway to greater accountability.

The report builds on, and contributes to, a decade's worth of research that IDRC has supported on access to land rights globally, especially for women, and IIED's research on the global land rush and analysis generated through its Legal Tools for Citizen Empowerment initiative.

We hope that others might find this report useful in their own efforts to ensure accountability along pathways to sustainable development in a rapidly changing world.



John de Boer
Program Leader
Governance, Security, and Justice Program
Canada's International Development
Research Centre



James Mayers
Head, Natural Resources Group
International Institute for Environment
and Development

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The research was carried out in preparation for a workshop organised by IDRC in Accra, Ghana in September 2012 and is being used as a baseline from which IDRC intend to build a programme of research in partnership with African researchers. The workshop was attended by around 30 participants, almost all from African research institutes, government departments and civil society organisations. An earlier version of this paper provided the basis for two days of lively debate around the issues raised and the critical research arenas proposed, drawing on the wide-ranging experiences of participants, which generated important feedback on the report. The authors have done their best to incorporate the observations made. For this constructive input we are very grateful to the participants: Akosua Darkwa, Alain Bagre, S. Ali Kaba, Amadou Sall, Annette Nicholson, Ojobo Atuluku, Bol Victor Dungu, Diery Gaye, Isaac Karikari, Jennifer Franco, Josephine Ahikire, Lilian Bruce, Liz Alden Wily, Loree Semeluk, Lotsmart Fonjong, Moussa Djiré, Mutuso Dhliwayo, Mwenda Makathimo, Ndeye Fatu Sesay, Ng'wanza Kamata, Otive Igbuzor, Patrice Sagbo, T. Nana Mokoah Ackatia-Armah, William Ole Nasha. Jon Lindsay reviewed the revised report and André Teyssier and Ali Kaba provided helpful comments on Table 1. While the authors' gratitude goes to all these reviewers, responsibility for the views expressed – and for any errors made – remains with the authors.

About the authors

Emily Polack is a researcher in the Natural Resources Group at the International Institute for Environment and Development (IIED). Her research focuses on trends and features of the global land rush, models of agricultural investments, and legal tools for securing land rights. She holds a Masters in International Development Law and Human Rights and has an interest in indigenous rights, legal pluralism and formal and informal accountability pathways in the land and natural resource investment sector.

Dr Lorenzo Cotula is a senior researcher in law and sustainable development, and he leads IIED's Land Rights Team. His work focuses on trends, features and socioeconomic outcomes of the global land rush, and he is currently leading an initiative on Legal Tools for Citizen Empowerment within natural resource investments in lower-income countries. He holds a law degree from the University La Sapienza of Rome, an MSc in Development Studies from the London School of Economics, and a PhD in Law from the University of Edinburgh.

Muriel Côte is a doctoral candidate at the Institute of Geography, University of Edinburgh. She is researching development and environment linkages in Burkina Faso through a multi-sited ethnography of decentralised forest management and artisanal gold mining. She is currently contributing to two separate research programmes: the Responsive Forest Governance Initiative, which seeks to strengthen representation of forest-based rural populations within local government decision making, and the Land Deals Politics Initiative, which examines the political economy of global land and resource dispossession.

Acronyms

ACHPR	African Charter on Human and People's Rights
ATCA	Alien Tort Claims Act (United States)
CICODEV	Institute for research, training and action for Consumer Citizenship and Development
CNOP	<i>Coordination Nationale des Organisations Paysannes</i> (National Coordination of Peasant Organisations) (Mali)
CSO	Civil society organisation
ECOWAS	Economic Community of West African States
EIA	Environmental Impact Assessment
ESIA	Environmental and social impact assessment
FAO	Food and Agriculture Organization of the United Nations
FIAN	FoodFirst Information and Action Network
FPIC	Free, prior and informed consent
FPP	Forest Peoples Programme
IDRC	International Development Research Centre
IFC	International Finance Corporation
IIED	International Institute for Environment and Development
LSLA	Large-scale land acquisition
NGO	Non-governmental organisation
NPP	New Plantings Procedure
OECD	Organisation for Economic Cooperation and Development
RSPO	Roundtable on Sustainable Palm Oil
UN	United Nations



Photo: © Edward Reilly, Courtesy of Photoshare

The Kihingo Farmer's Group in Nakuru, Kenya.

Executive summary

Setting the scene: accountability in large-scale land acquisitions

Recent years have seen a renewed investor interest in acquiring farmland for agricultural investments in the global South, largely driven by a fast evolving global context that results in higher and more volatile agricultural commodity prices. Whilst investment in agriculture can create jobs, improve access to markets and contribute infrastructure for agricultural development, many large-scale land acquisitions (LSLAs) have been associated with negative impacts for local populations, including the dispossession of land and other resources and increased conflict over economic benefits. A growing body of research on LSLAs has emerged over the past few years that has shed much light on the phenomenon, although many aspects of this 'land rush' are still poorly understood.

The land rush raises multifaceted and inherently political development challenges. With the stakes so high, there is wide recognition that improved public accountability is critical to promoting democratic decision-making and enabling local voices to be heard, but also to discouraging harmful investments and enabling local groups to get a better deal from incoming investment. Yet lines of accountability are complex and poorly understood, particularly in contexts of legal pluralism, fragmented land management responsibilities and transnational economic relations. And land deals cut across multiple spheres of governance – from land administration through to the governance of international investment flows. Furthermore, the factors that facilitate or undermine public accountability, and the outcomes of growing efforts to promote accountability, are still little understood. The longer term impacts on legitimacy of public authorities and other actors are also uncertain.

This report assesses the state of evidence on pathways to accountability in the global land rush, with a focus on Africa, and identifies areas for a new research agenda that places accountability at its centre. The report takes a twin-track approach of exploring how the legal frameworks regulating the land rush shape opportunities and constraints in formal pathways to accountability; and how people who feel wronged by land deals are responding to seek justice. These two perspectives broadly reflect the complementarity and convergence of two common ways of conceptualising accountability: 'accountability as rights', which focuses on the substantive rights and transparency of process established by legal and regulatory frameworks, and 'accountability as power', which emphasises the importance of citizen action, power and politics in public accountability. The report draws on an analysis of legal frameworks relating to 12 African countries, and on a review of 16 cases of LSLAs for which citizen responses were most extensively documented in the literature.

Overall, there is a relatively good understanding of the opportunities for, and constraints on, accountability that are embedded in formal legal frameworks. But information on the nature and effectiveness of local response strategies remains limited. There are many reasons for this. Firstly, it is still early days for many response strategies to have unfolded let alone be documented. Secondly, information is often hard to access. Finally, pathways to accountability have not been the primary line of enquiry for many researchers to date. The literature has largely focused on the scale, geography, features and early impacts of the deals.

The role of the law in shaping pathways to accountability

For some, the law provides the foundation for rights and accountability. For others, it legitimates abuses of power against the powerless. In the case of LSLAs, legal frameworks provide some opportunities for protecting the land rights of rural people in Africa and for holding decision-makers to account. These opportunities are particularly linked to recent law reforms to strengthen the recognition of customary land rights, some recent freedom of information legislation, developments in international human rights law and new opportunities created by transnational litigation. Some local-to-global response strategies have sought to draw support from the law, namely in the form of lawsuits aimed at challenging land deals or their terms and conditions.

Overall, however, the law regulating LSLAs tends to undermine pathways to accountability. When land becomes of interest to commercial investors, the legal options available to local groups are few – and so is the effectiveness of the opportunities for public accountability created by the law. In many contexts, it is perfectly legal for a government to allocate land to a company with minimal consultation and transparency, and with paltry compensation payments for local groups. Control over land is often in the hands of the government or of customary chiefs, and multiple legal devices undermine the land rights of local farmers, herders and foragers, and the formal opportunities for these groups to have their voice heard. The implementation of progressive land tenure reforms has been slow and often ineffective. Advances in international human rights law have not kept the pace with the substantial safeguards that international law has come to accord to foreign investment. And advances in transnational litigation are unlikely to benefit many of the people affected by large land deals, due to both legal and practical barriers. Promoting accountability in decisions affecting land and resources would require a rethink of national and international legal frameworks.

Citizen action – how effective are the bottom-up checks and balances?

Citizen action in response to perceived injustices takes diverse forms and is led by many different actors. Mechanisms include various types of local through to

international protest, media engagement, mobilisation of national and international networks and organisations, involvement of opposition parties, use of grievance mechanisms linked to certification bodies, through to formal recourse to the courts of law. Varying constellations of local committees, political, religious or customary leaders, journalists, researchers, producer organisations through to international campaigning bodies have led much of the action.

The outcomes are equally wide-ranging, and tracing outcomes to particular strategies is challenging. Where a strategy leads to positive breakthroughs in one case, it may lead to a backlash in another, as context importantly shapes the outcomes of citizen action. There have been some successes, but these are often partial. There is rarely a perfect match between outcomes sought and achieved, and some actions have resulted in favourable outcomes that were not at first anticipated.

It is worth noting that several of the deals reviewed have collapsed. This is usually linked to changing economic and financing circumstances more than to citizen action. But there are signs that action led by citizen groups and non-governmental organisations (NGOs) has played a role in the cancellation, suspension or renegotiation of some individual deals (including more generous compensation arrangements, for instance), and even in early signs of wider shifts in land and investment governance.

Under what conditions can citizens achieve justice in the context of LSLAs?

Some important successes have been achieved, and the growing awareness and mobilisation around LSLAs hold promise for the future. But the prevailing conditions that shape the rush for Africa's land are not conducive for citizens to obtain justice where they feel that their rights or aspirations have been infringed. Reversing this context would require a rethink of national and international legal frameworks, and sustained support to locally rooted citizen action. A 'legal empowerment' agenda encapsulates these two arenas – legal reform to increase local control and downward accountability, and collective action for bottom-up checks, balances and agenda-setting. This notion of legal empowerment relies on a range of institutions and institutional strengths and capacities. Where 'accountability as rights' lies in effective legal systems and frameworks and the structures of democratic institutions, 'accountability as power' lies in skills and capacities to claim power and rights, through skills and passion for engaging in policy processes, conducting legal, policy and institutional analysis, developing alternate visions of development and modernisation, designing legal reforms, piloting programmes, developing new systems of checks and balances, and strategic non-violent direct action and advocacy. A holistic concept of legal empowerment placed at the intersection of these pathways is important, because it is clear that, if one mechanism is in place but the others are weak, or if a coordinating actor is not perceived to be legitimate, then justice will not necessarily be achieved.

There are no magic bullets in defining possible ways forward for legal empowerment. Consultation processes that aim to generate community buy-in and reduce the likelihood of conflict are fraught with difficulties. Time and other pressures tend to affect the quality and legitimacy of the consultation. Yet increasing local control over the decision-making processes that shape agricultural investment is critical to ensure that these processes are perceived as legitimate. One response to weak transparency and consultative processes is that deliberative consultation should be a standard feature of democratic governance in rural areas, not just for one-off projects. In other words, giving people a say should not wait until an investment project comes in – it should be part and parcel of rural development. Vehicles for doing this would include the participatory formulation of a shared vision for rural development, participatory land use planning and zoning, and public participation in law reforms.

What role for research?

Specific research needs will inevitably vary from country to country, and the definition of locally rooted research agendas will require critical input from policy makers and from shapers at the local level. That said, some broad directions for future research include:

- Developing more holistic assessments of land governance and the changing land relations across Africa. This means paying equal attention to the land acquisitions by urban or rural elites, which may have been happening for longer on a greater scale than international deals. The implications for changes in power relations concerning land and resource access as well as livelihood, food security and environmental sustainability are not well understood. Local and national land acquisitions are likely to raise different legitimacy and accountability issues than those at stake in the more publicised international deals. Researching changes in land use and control in relation to multiple drivers of change, including smaller acquisitions or investments by domestic actors, will help place the conditions under which large-scale land acquisitions happen and the required reforms in policy and practice, into a more nuanced perspective when developing strategies to strengthen the accountability of authorities, private actors and NGOs to rural citizens.
- Developing a deeper understanding of actors and institutions and their roles and responsibilities. This could be through political economy analysis or analysis of policy processes, narratives and interests and barriers to changes in behaviour. It includes developing a better understanding of what motivates, and what enables, different groups to engage in citizen action and hold to account public authorities, but also national and international NGOs, development agencies and the private sector. Also, who do local landholders see as accountable, and what means do they have to demand answers and impose sanctions? Do the actions of some impact the capacity of others to assert citizenship and seek justice in the case of a

perceived wrong-doing? In researching actors and agency, it is critical not to treat romanticised 'communities' as homogenous, and to consider social differentiation (e.g. gender, age, ethnicity, socio-economic status) and how the interplay between different actors – from local demands to transnational networks – shapes agendas and pathways in accountability processes. Gender is a particularly important aspect that has largely been ignored in the literature on accountability in LSLAs, and investigating the different perceptions, aspirations and actions of men and women in response strategies can provide important insights for civil society support initiatives.

- Developing a deeper understanding of the accountability mechanisms to make legal empowerment work in practice. This is an arena where action-research methods seem particularly promising. Relevant mechanisms to be explored would be wide-ranging, but might include investigating what rigorous community consultation and free, prior and informed consent (FPIC) processes might look like in practice, or supporting pilot processes for the collective registration and delimitation of local landholdings. Countries where community land delimitation has already been implemented, such as Mozambique, provide useful contexts to study the political, financial, legal and capacity bottlenecks that have been slowing progress with implementation. While many have called for greater transparency in decision-making and individual negotiations, a critical analysis of the conditions under which transparency can indeed result in better outcomes is needed. The prominent role of the media in raising awareness and disseminating information about the land rush calls for rigorous analysis of the enablers and impacts of media engagement as a strategy for change. This report documents several known court cases challenging large land deals, but as yet there is very little evidence on the effectiveness of formal litigation as an accountability mechanism. It is also widely recognised that legal support organisations play a critical role in making litigation possible. But a better understanding of the extent to which, and the ways in which, local people supported by these efforts can genuinely retain ownership and leadership in the action is critical for shaping future access to justice initiatives.
- Mapping the channels through which advances in research translate into change in policy and practice. This may involve applying established research-to-policy frameworks already used in some research and development programmes. These include tools which systematically assess context, actors and institutions from the perspectives of their politics and interests, their narratives, and their claims to legitimacy via the evidence base, as well as tools that consider how engaging different actors in research and analysis can effect change.

1. Setting the scene

Recent years have seen a renewed investor interest in acquiring farmland for agricultural investments in lower-income countries, largely driven by a fast evolving global context that results in higher and more volatile agricultural commodity prices. Whilst investment in agriculture can create jobs, improve access to markets and contribute infrastructure for agricultural development, many large land deals have been associated with negative impacts for local populations, including the dispossession of land and other resources and increased conflict over economic benefits. Local reliance upon access to land and natural resources and ecological integrity makes the issue of LSLAs a pressing development concern. And while large land deals are not a new phenomenon, the pace and scale of recent trends, coupled with the role of new and old foreign public and private investors, have raised new grounds of concern.

A growing body of research on LSLAs has emerged over the past few years that has shed much light on the phenomenon. It is now understood that pressures on land in the global South are manifold (demographic, conservation, extractive industries, tourism; Anseeuw *et al.*, 2012). And even within the agriculture sector alone, investors and investments are extremely diverse, for instance with the size of the land acquired ranging from a few hectares to several hundred thousand hectares. Precise figures for the scale of the global land rush are still hard to establish. Data at the national level is often weak, with many deals happening behind closed doors, and much research to date has relied on media reports. In this context, researching trends is challenging and cross-referencing between studies near impossible (Cotula and Polack, 2012). Overall, it is likely that media reports have collectively led to inflated total figures for land acquired. But evidence based on country-level research confirms the large scale of the phenomenon. For instance, some 10 million hectares of land were acquired in just five African countries between 2004 and 2009 alone (Deininger *et al.*, 2011). Africa has proved a popular destination for these investment flows, accounting for a substantial share of acquired land areas according to several available datasets (Deininger *et al.*, 2011; Anseeuw *et al.*, 2012; and <http://landportal.info/landmatrix>). Data from national inventories of land deals has also demonstrated the dominance of European and North American investors and of fuel crops and agricultural commodities, countering common perceptions of a land rush dominated by Middle Eastern and Asian investors concerned about food security (Schoneveld *et al.*, 2011; Cotula, 2012b; Cotula and Polack, 2012).

In addition to quantitative assessments of scale, social, economic and environmental impacts have been widely reported on in a growing body of academic literature and media coverage. The massively oversubscribed International Conferences on 'Global Land Grabbing' organised by the Land Deals Politics Initiative in 2011 and

2012¹ demonstrated the strong interest in the phenomenon, and the impressive amount of analysis in process. Research to date indicates that the jobs frequently promised do not materialise, and dispossession and deprivation amongst affected communities are being driven by loss of land and resources, including through forced evictions; a lack of alternative livelihood options; inability to compete on local markets; and conflict and insecurity (see e.g. Cotula *et al.*, 2009; Sulle and Nelson, 2009; Mushinzimana and Diallo, 2009; Schoneveld *et al.*, 2011; Djiré and Keita, 2010; FoodFirst Information and Action Network (FIAN), 2010; Nhantumbo and Salomão, 2010; Amanor 2011; Tsikata and Yaro, 2011; Deininger *et al.*, 2011; Oxfam, 2011; Oakland Institute;² Daley and Scott, 2011; Anseeuw *et al.*, 2012; Human Rights Watch, 2012). However, whilst failures in process and immediate impacts have been widely documented, the longer-term impacts of the current wave of land acquisitions can only be inferred, and will only be seen in decades to come.

A recurring problem is that much research on the impacts of land deals fails to disaggregate data and analysis. For example, most major studies on LSLAs and agricultural investments display a lack of gender disaggregated data and of explicit analysis of the gendered outcomes of the deals. A few studies have explored how women's marginalised position in many societies systematically leads to worse outcomes for women (Daley, 2011; Behrman *et al.*, 2011), for example in relation to women's restricted access to land and resources, and in some cases their limited control over intra-household decision-making, heavy workloads, more limited access to agricultural extension and greater reliance on common property resources.

The land rush raises multifaceted and inherently political development challenges. With the stakes so high, there is wide recognition that public accountability is critical to promoting democratic decision-making and enabling local voices to be heard, but also to discouraging harmful investments and enabling local groups to get a better deal from incoming investment. Indeed, negative impacts, land conflicts and local reactions and resistance have raised fundamental questions about the accountability of decision-makers toward their constituents, but also about the legitimacy of institutions that govern land and investment. There is vast evidence to show that governments are playing a critical role in facilitating land deals, by making public land available to prospective investors. In this sense, the land rush raises questions about the relationship between citizens and the state. But actors outside government – from customary chiefs to transnational corporations – are also key players in the land rush, and the need for a public accountability agenda reaches well beyond state actors alone. The framing of LSLAs as a human rights concern (De Schutter, 2009) compounds the centrality of accountability in response strategies to the land rush.

But despite the widely recognised importance of accountability mechanisms, and despite the growing body of evidence on LSLAs, the factors that facilitate or undermine public accountability, and the outcomes of the growing efforts to promote

1. See http://www.future-agricultures.org/index.php?option=com_content&view=category&layout=blog&id=1547&Itemid=978 and <http://www.cornell-landproject.org/>.

2. See <http://www.oaklandinstitute.org/land-rights-issue> for a number of country reports by the Oakland Institute.

accountability, are still little understood. There is still significant uncertainty over the extent to which citizen responses are proving successful in addressing the multitude of challenges that the land rush presents. There are some obvious reasons for this. It is still early days for many such responses, and few processes have been properly documented. Rigorous empirical research on this subject is challenging: not only are deals shrouded in secrecy, but also realities shift rapidly as approved investments undergo major changes or are even discontinued due to changing economic circumstances. Political dynamics render particular deals highly sensitive and reduce the willingness of people to talk with researchers (see e.g. Hilhorst *et al.*, 2011). Lines of accountability are complex and poorly understood, particularly in contexts of legal pluralism, fragmented land management responsibilities and transnational economic relations. And land deals cut across multiple spheres of governance – from land administration through to the governance of international investment flows.

This report assesses the state of evidence on pathways to accountability in the global land rush. To date, international responses to the land rush have focused on the development of guidance on agricultural investment and on land governance. But any discussion of ways to improve accountability must start from the efforts that small-scale producers, farmer organisations, NGOs, diaspora associations and many others have made to hold governments and companies to account, as well as from the 'hard' law that shapes LSLAs, their impacts on the ground and opportunities for public accountability. This study maps existing research on these two critical aspects. It explores how the legal frameworks regulating the land rush shape opportunities and constraints in formal pathways to accountability; and how people who feel wronged by land deals are responding to seek justice. These two perspectives approach the state-society nexus from different but complementary angles. The report aims to develop a research agenda and identify possible entry points for supporting investigation on issues of large-scale land acquisitions.

The report focuses on sub-Saharan Africa, and unless otherwise stated 'Africa' is used as short-hand for sub-Saharan Africa. As discussed, Africa is widely perceived to have been a key recipient of land-based investments. But it must be emphasised that LSLAs are happening in other parts of the world too – including Asia and Latin America. While a discussion of experience in Africa can provide insights of wider relevance, pathways to accountability in other regions must be one of the next key steps for this research agenda.

Chapter 2 develops the conceptual framework and research methods underpinning this report. Chapter 3 discusses the key features of the law regulating land deals and agricultural investment, focusing on the levers that shape the deals, their outcomes and the accountability lines associated with them. Chapter 4 analyses emerging local-to-global strategies to respond to land acquisitions, drawing on selected cases where local responses have been relatively well documented. Chapter 5 assesses the state of the evidence and makes recommendations for the development of a new research agenda in Africa.

2. Conceptual framework and research methods

2.1 Conceptual framework: accountability, justice and legitimacy in the global land rush

Broadly speaking, accountability refers to the ability to hold decision-makers to account for their actions. Two broad strands of thinking have emerged in the development literature. The first conceptualises accountability as rights, rules and procedures, focusing on the substantive rights and transparency of process established by legal and regulatory frameworks. This line of thinking, which we refer to as 'accountability as rights', builds on legal and public administration studies and emphasises the formal processes that enable citizens to demand answers (answerability) and sanction misconduct (enforceability) (e.g. Schedler, 1999).

The second strand can be referred to as 'accountability as power'. Authors such as Newell and Bellour (2002), Newell and Wheeler (2006), Cornwall and Gaventa (2001) and Mahendra (2007) have emphasised the importance of power relations in public accountability. For instance, according to Dunn and Gaventa (2007:1):

'Accountability, rather than being a bureaucratic or legal term, is about improving democratic processes, challenging power and claiming citizenship. It is best claimed from below by citizens themselves, rather than only being provided by the state. Supporting citizen-led initiatives is important as they address accountability failures in very direct ways.'

The notion that accountability is claimed implies the need for citizens to understand the opportunities and mechanisms available for them to work within a system as well as to challenge it. Therefore, accountability must be analysed within the changing contexts in which it emerges and in light of citizens' evolving and highly differentiated capacities to mobilise accountability mechanisms.

In recent years, these two strands of thought have tended to converge. 'Accountability as rights' and 'accountability as power' have come to be seen as complementary and mutually reinforcing. Formalistic notions have given way to more holistic approaches to conceptualising accountability mechanisms. And bottom-up approaches have recognised the importance of the capacity of citizens to exercise rights as part of collective action and mobilisation. Recent research has demonstrated the powerful role that citizen engagement plays outside the formal electoral system (Benequista, 2011). 'More effective citizen action in turn can contribute to more responsive states, which deliver services, protect and extend rights, and foster a culture of accountability' (*ibid.*:7). This is what Agrawal and Ribot (2012:16) term 'societal accountability'. Transparency of public action, independent judiciaries, and freedom of the press are all seen to be critical aspects of regulatory

frameworks that enable effective public accountability (e.g. Ribot, 2004). But transparency, to take one example, does not automatically lead to decision-makers being held to account. It is the capacity of citizens to mobilise and use the new opportunities for public scrutiny offered by greater transparency that can lead to change (Fox, 2007; Bovens, 2007).

In this sense, accountability must be considered within the wider processes of state formation, citizen collective action and democratic representation described in current debates over the mobilisation of power in state-citizen relations (Ackerman, 2003; Chhatre, 2007). But integration in a globalised economy has added complexity to notions of accountability within the sovereign state. In addition to the push toward downward, 'democratic' accountability linking public authorities to their citizens, accountability involves complex relations among diverse actors and institutions that are increasingly connected across scales – from donors and development agencies to global business through to transnational civil society movements. This means that citizens are operating in a geographically expanded legal sphere (Goetz and Jenkins, 2002) and a context of local-to-global legal pluralism. Conversely, new initiatives to monitor national and global processes from the bottom up (e.g. participatory budgeting) and rapid technological innovation create new accountability mechanisms and opportunities (e.g. crowdsourcing) that situate democracy dynamics beyond the legal and geographical bounds of nation states. For example, transnational activism and networks provide a countervailing force to the 'mazes of opaque financial instruments' which may 'mask the actual interests and actors at work' (Peluso and Lund, 2011:671). And the dislocation of decision-making authority across a wide range of actors and institutions other than the sovereign state – from international agencies to customary chiefs – has strengthened the need for effective accountability mechanisms well beyond state actors.

In the global land rush, reference has been made to both 'accountability as rights' and 'accountability as power'. Calls to strengthen the rules and guidance as a means to improve accountability have been a common response to the land rush. The proliferation of international guidelines and principles (e.g. the World Bank-led Principles on Responsible Agricultural Investment, the Food and Agriculture Organisation (FAO), Voluntary Guidelines on the Governance of Tenure of Land, Forests and Fisheries, the United Nations Special Rapporteur on the Right to Food's Principles on Large-Scale Land Acquisitions and Leases, and the United Nations Principles on Business and Human Rights) reflects this trend. NGOs have carried out analysis and advocacy work to improve transparency in decision-making over land deals (e.g. Global Witness *et al.*, 2012). Yet a common problem in international guidelines and principles is that the sanctions and incentives for compliance remain weak. The success or failure of these experiences ultimately depends, to a significant extent, on the ability of citizens to mobilise international networks and pressure points for compliance.

In considering 'accountability as power', authors have challenged the relevance of voluntary guidance as a means to regulate land deals and agricultural investments, placing greater emphasis on the need for bottom-up strategies that harness politics to increase local control over land resources (Borras and Franco, 2010a; Borras and Franco, 2010b; Palmer, 2011) and incoming investments. Also, authors who have tackled the politics of transitions in land control do not look at land deals for agriculture in isolation, but they also address broader trends of transitions in land use, ownership and control – or agrarian change (Peluso and Lund, 2011; Hall, 2011; Borras and Franco, 2010b). In this context, land is seen as the site of struggle for power over self-determination. New regimes are being shaped through new enclosures, new labour and production processes, and new actors, subjects and networks connecting them.

The latter strand of research is firmly rooted in concerns over social justice. Its analysis points to the fundamental changes that LSLAs are bringing to the terrain on which social justice is claimed and addressed. For example, the involvement of international players in LSLA dynamics at both ends of justice claims (land acquirers and transnational activist networks) changes the nature and relevance of authority and power in sovereign nation states. In Nancy Fraser's terms, this raises the question of whether 'public spheres today could conceivably perform the democratic political functions with which they have been associated historically' (Fraser, 2005:6). These processes weaken the historically strong link between social justice claims and sovereign states, including the ability of sovereign states to effectively address the social justice issues that emerge in LSLA contexts. They also problematise the concept of 'citizens', the actors who can legitimately hold decision-makers to account within traditional notions of accountability, because they raise new questions about the ways in which those making demands relate to processes of democratic representation.

The concept of legitimacy is therefore also central to building the links between accountability and justice. Maley (2008:12) defines legitimacy as referring to 'generalised, normative support' for a particular political or social order and relationships between citizens and authorities that are grounded in 'consent rather than in coercion' (Maley, cited in IDRC, 2011). This notion of legitimacy is ultimately rooted in how citizens perceive the actions of institutions. 'Good government is produced through a virtuous relation between active citizens and strong government based on the representation of people's needs and aspirations in policy making and implementation processes' (Fox, cited in Agrawal and Ribot, 2012). Where this virtuous relation breaks down, and where decision-makers become unaccountable, their legitimacy can be called into question.

There is a complex relationship between legality and legitimacy. At one level, the law provides an important source of legitimacy. But 'legal' is not necessarily 'legitimate'. Many land deals are conducted by private and public authorities as 'legal' acts of appropriation, in that they comply with procedures under applicable law. They are often facilitated by land expropriations for a 'public purpose' and by policy-

		Political space			Legal distribution of decision-making authority in land and investment matters		Legal protection of local land rights	
		Freedom of association ³ Score 0-12 (12 = best)	Participation and human rights ⁴ Score 0-100 (100 = best)	Freedom of press ⁵ Score (0 = best) ⁵	Political decentralisation	Decision-making authority for land allocations	Recognition of customary rights	Consultation or FPIC legally required as a condition for land allocation
Cameroon	3	32	35	Decentralisation – but land management not devolved	Central government. Land Consultation Boards at prefect level	Customary rights not legally recognised – but local use rights protected subject to evidence of productive use	No	
Ethiopia	0	36.3	56.6	Federal state on paper, centralised decision-making in practice. Local government in charge of land administration services	Largely central government; regional government for small deals	Customary rights not legally recognised – but local use rights protected subject to evidence of productive use	No	
Ghana	11	69.2	11	Decentralisation – but land management not devolved	Most land deals signed with customary chiefs; tax incentives and licences from central government	Customary rights legally recognised	Most deals negotiated with local chiefs	

3. Freedom House Freedom of association and assembly country scores <http://www.freedomhouse.org/report/freedom-world-aggregate-and-subcategory-scores>.

4. The Ibrahim Index on Political Participation and Human Rights (includes: free and fair elections, political participation, electoral self-determination, effective power to govern, core international human rights conventions, human rights, political rights, workers' rights, freedom of expression, press freedom, freedom of association and assembly, civil liberties, gender equality) (<http://www.moibrahimfoundation.org/downloads/2012-11-AG-data-report.pdf>).

5. Reporters without borders Press Freedom Index 2011-12 http://en.rsf.org/press-freedom-index-2011-2012_1043.html.

6. In fact scores go into the negative, with Finland scoring -10.

Liberia	8	53.2	40.5	Decentralisation policy in place	Land may be alienated subject to the chiefs' permission on behalf of the community	Community Rights Act defines customary land as owned by the communities living on it, whether or not there is any formal document	Yes, in constitution ('maximum feasible participation' in natural resource management) and as part of environmental impact assessment (EIA) – but disappointing implementation
Madagascar	7	42.1	29.5	Decentralisation, and dual land administration services – land titles from deconcentrated government administration and certificates from 'guichets fonciers' run by municipalities	Central government for state lands, but presumption of state ownership abolished. Some large land deals signed in an informal manner with local communities	Untitled private property can be registered / certified by municipalities if users can prove their land individual or collective holding	Consultation requirements as part of EIA. But unclear whether consultation on wider set of issues is required
Mali	10	60.3	0	Decentralisation policy but incomplete transfer of powers, especially in relation to natural resources	Central government and parastatals (e.g. Office du Niger)	Customary rights legally recognised and protected subject to evidence of productive use	Consultation requirements as part of EIA. But unclear whether consultation on wider set of issues is required
Mozambique	7	57.9	21.5	Decentralisation – but land management not devolved	Central government, but consultation of 'local communities' required	Customary rights legally recognised irrespective of registration – but in practice weak rights without title	Yes, but mostly disappointing implementation

Senegal	8	59.6	26	Decentralisation – including devolution of land management responsibilities	Local and central government	Customary rights not legally recognised – but local use rights protected subject to evidence of productive use	Land allocated by elected rural councils
Sierra Leone	7	54.6	21	Decentralisation – land use management and administration in hands of chiefdoms	In theory central government, but in reality many deals made with chiefs	Customary rights legally protected as usufruct	FPIC stipulated in Investment Promotion Centres' guidelines. Disappointing implementation
Tanzania	5	62.3	6	Decentralisation, land management devolved	Largely central government; village authorities for small deals	Customary rights legally recognised. Recording possible but few customary certificates issued. Subject to productive use	For village land, Village Assemblies must be consulted
Uganda	9	54.8	64	Decentralisation – but land management not devolved	Central government	Customary rights legally recognised	No
Zambia	7	59.1	30	Decentralisation – strategies to decentralise land administration and management in place	Alienation of customary land (88%) requires permission of chiefs as well as central government	Customary rights legally recognised – but unregistered uncultivated land poorly protected in practice	Yes, but responsibility with chiefs and district councils. Developers required to consult as part of the EIA

embedded classifications of 'waste', 'idle' or 'empty' land. But these 'lawful' land appropriations may not necessarily be in line with some citizen's idea of 'right action', or compatible with the certain – if fragmented – 'value patterns of the society' (Stillman, 1974:39). In other words, lawful acts may still be perceived as illegitimate by some. In these cases, local responses to land deals and strategies aimed at obtaining justice may involve not only use of legal recourse, but also advocacy to reform the legal system itself and the institutions involved.

History powerfully shapes both 'accountability as rights' and 'accountability as power' – because the law regulating today's LSLAs is the product of much legal stratification dating back to colonial times, and because historical trajectories profoundly influence power and politics in any given context. Perceptions of legitimacy also evolve over time – and historical legacy can do much to strengthen – or erode – the legitimacy of authority. This discussion of accountability, justice and legitimacy has direct implications for the framing of this report. First, given the importance of both 'accountability as rights' and 'accountability as power' in the land rush, assessing evidence on mechanisms for accountability requires examining two strands: how the law creates or constraints opportunities for public accountability; and the strategies that citizens employ to mobilise, respond and hold decision-makers to account. For practical reasons, these two dimensions of accountability are discussed in separate chapters, but the conclusion aims to bring together insights from the two strands.

Given the importance of context in shaping the nature and outcomes of accountability mechanisms, and given the great diversity of contexts across sub-Saharan Africa, the report situates the discussion of accountability in 12 countries selected to reflect diverse contexts in relation to key aspects of both the legal and political dimensions of accountability in land deals (see Table 1):

- political space for mobilisation and contestation, based on available scorings and rankings about freedom of association, free and fair elections, free press
- the way in which national law distributes decision-making authority about land allocations, which defines the authorities – local to national, public to private – that would need to be held to account
- the legal protection of local land rights, particularly whether customary rights are protected and how, whether local consultation or consent is required as a condition for land allocations, and the redress mechanisms available to local landholders.

It is recognised that these sets of indicators present important limitations in capturing contextual features affecting political and legal accountability. A comparison between the 'political space' scorings of Ghana and Ethiopia confirms perceptions about Ghana's significantly more open political space. But besides questions about the methodologies underpinning these ranking and scoring exercises, it is recognised that the data presented in Table 1 does not fully capture the complexities

of how the exercise of political power and space affect public accountability, for example with regard to how dominant-party regimes may crowd out formally recognised political space.

2.2 Research methods

A literature review based on a pre-defined search protocol led to the identification of land acquisition cases where bottom-up strategies had been documented. Given the expected scarcity of academic literature on responses to land acquisitions, search engines/databases combined academic engines (e.g. Web of Knowledge⁷) with databases including grey literature and media reports (e.g. farmlandgrab.org;⁸ AllAfrica.com⁹).

The search delivered a vast amount of material. Sixteen case studies were selected, covering the diversity of country contexts presented in Table 1. It is recognised that these case studies do not constitute a statistically relevant sample. In fact, this report being a literature review, had to prioritise better documented cases; it is possible that cases presenting certain features (e.g. more problematic cases involving larger or failed deals) have attracted more research and media attention. Also, it is recognised that land acquisition by nationals can cumulatively account for larger land areas than acquisitions by foreign investors (Deininger *et al.*, 2011). A majority of the cases reviewed involve foreign investment, which seem to have attracted greater public and research attention.

The focus was on response strategies and their outcomes, not on the land deals themselves or their impacts. Several of the land deals in the sample have since been discontinued. The impacts of some deals are contested, and for some it is still too early to tell. Due to the limited literature specifically on response strategies to LSLAs, the research had to rely on a combination of diverse, available sources – from journal articles to NGO literature through to media reports – which were cross-referenced to maximise accuracy.

Case studies were coded by country name (e.g. Cameroon-1, Ethiopia-1), and key information for each case study was summarised in a table. Interviews were carried out to clarify details for a few cases. For each case, data extraction focused on a standard template covering: identification of the case; main issues/claims at stake; actors (who was being held to account by whom); accountability mechanisms used; outcomes pursued; outcomes achieved; and robustness of the evidence. Information extracted for each case provided the basis for critical comparative analysis across cases.

7. See <http://wokinfo.com/>.

8. See <http://farmlandgrab.org/>.

9. See <http://allafrica.com/>.



Photo: © 2005 Richard Nyberg, Courtesy of Photoshare

Village chief of Boula Théodore Mada Keita, holds up the fonio grain that helps feed his family in southern Senegal. With external donor support, his community is working to better process and sell this nutritious grain, which is increasingly in demand in specialty markets overseas.

Given the current state of the literature on accountability strategies, it must be noted that many data providers are themselves ‘accountability players’ – including reports from media sources and NGOs. Academic research on accountability strategies is growing rapidly, but published studies remain few. Media sources and NGO reports remain the main source of data on how citizens are responding to LSLAs. As a result, this report had to rely on media reports to a greater extent than would normally be desirable in a research project. Of course, media reports are of varying reliability, and this constitutes an important limitation of the report. Given the patchiness of the available evidence, the report aims to develop a conceptual framework and outline key issues for further discussion, rather than present definitive answers.

3. How the law influences opportunities for accountability

For some, the law provides the foundation for rights and accountability. For others, it 'legalizes and legitimates the dispossession of the powerless' (Mattei and Nader, 2009, in Peluso and Lund, 2011:675). Through a discussion of legal frameworks across 12 African countries, this chapter assesses the ways in which the law provides or undermines opportunities for citizens to hold decision-makers to account.

Twenty years ago, the end of the cold war triggered important shifts in the relationship between government and citizens that created much reason for optimism. New democratic constitutions were adopted in a number of countries, though in practice the degree of political openness varied significantly between countries. Decentralisation policies were enacted, which sometimes devolved land or natural resource management responsibilities to elected local government bodies (e.g. in Senegal and Tanzania). Constitutional safeguards introduced or strengthened the legal protection of the human right to property and, in a few cases, of the right to food – human rights that have direct implications for the protection of local land rights. A new wave of progressive land laws were adopted in a number of countries, including Mozambique, Tanzania, Mali and Uganda. And a new wave of environmental legislation introduced stricter regulation and impacts assessment requirements.

Yet prevailing legal frameworks provide real reason for concern as today's land rush unfolds. The law offers some opportunities to promote public accountability in LSLAs. But important features of the law tend to undermine pathways to accountability. This chapter identifies gaps in legal texts and failures in the implementation. The chapter reflects on five key shapers of public accountability in land deals:

- Land tenure: who controls land and resources?
- Investment promotion under national law: what type of investment are governments encouraging, and how?
- Participation, transparency, safeguards and recourse in decision-making: do these establish robust mechanisms for scrutiny and accountability?
- International law and standards: whose rights are protected?
- Transnational legal relations: what opportunities exist to rebalance shortcomings in national frameworks?

3.1 Land tenure

Who controls the land is a critical aspect of the law regulating land deals. This area is largely regulated by national law, and still profoundly influenced by the colonial legacy. Under colonialism, European powers usually vested ownership of much land with the colonial administration as a means to open up resources for companies or settlers. Despite much law-making since independence, some fundamental features of colonial land legislation are still in place.

Insecure local land rights

While there is a huge diversity of national legal frameworks, a recurring issue is the fact that central governments control all or most land. For example, land is nationalised in Ethiopia and Mozambique. Some countries do recognise private land ownership (e.g. Mali, Cameroon), but this remains uncommon due to inaccessible land registration procedures. So even here, the state owns or otherwise controls much of the land (Djiré, 2007, on Mali; and Nguiffo *et al.*, 2009, on Cameroon). In practice, customary tenure is the dominant mode through which rural citizens access land in all the case countries. But customary rights are often not properly protected by national law – and even where they are, they are rarely recognised as constituting land ownership. So citizens generally only hold use rights to state-owned land. There are a few exceptions to majority state land ownership. In Ghana, 80% of the land was said to be vested in traditional authorities, families and individuals (Kasanga and Kotey, 2001). In Madagascar, land legislation passed in 2005 reorganised land historically placed under the *territoire domanial* (state land) into public and private state estates and private land, and recognised individual and collective rights to unregistered land (Teysier *et al.*, 2010).

National law empowers the government or other relevant authority – as the legal owner of the land – to allocate land rights to commercial operators. In Mozambique, the government can issue long-term leases,¹⁰ and comparable systems exist in virtually all other African countries. Economic liberalisation may have entailed a shift towards recognising private enterprise as the driver of economic development, but the state retains a central role in making natural resources available to private operators.

A recurring problem is that local landholders have insecure rights to their land when faced with large investment projects (Cotula, 2007; Alden Wily, 2011). In recent years, reforms have strengthened the legal protection of local land rights, including customary rights, in some African countries, including Liberia, Tanzania, Mali, Mozambique and Uganda.¹¹ These tenure reforms usually followed wider processes of political and legal reform, including a transition from single-party regimes to multi-

10. Article 12(c) of the Land Act of 1997.

11. Respectively: Section 3.3 (Rights and Principles) of Liberia's 2009 Community Rights Act with Respect to Forest Lands; Article 18 of Tanzania's Village Land Act of 1999; Articles 43-48 of Mali's Land Code of 2000-02; Articles 12(a) and (b), 13(2) and 14(2) of Mozambique's Land Act of 1997; and Article 9 of Uganda's Land Act of 1998.

party elections that reframed relations between government and citizens. According to a comprehensive review, only in three African countries do current land laws explicitly aim to extinguish customary land holding (these being Eritrea, Ethiopia and Rwanda) (Alden Wily, 2012). But the reach of these reforms varies from country to country. In Tanzania and Mozambique, customary rights are afforded equal status to other land rights; while in Mali, stronger legal protection is accorded to registered land ownership.

Also, despite the reforms, local rights remain fragile when land becomes of outside interest. A common challenge is that very few rural people have registered titles for their land. Progress is being made in recording customary rights, for example through demarcation and registration of 'community lands' in Mozambique. Whilst community land demarcation and registration is legally supported in some countries (e.g. Mozambique, Tanzania, Uganda, Liberia to some extent), progress has tended to be slow. For example, in Mozambique just 10% of the land area and just over 10% of communities have had their lands delimited (Knight *et al.*, 2012:40). Following the enactment of Tanzania's Land Act and Village Land Act in 1999, only 850 villages have obtained a certificate for their village land under that law, out of an estimated total of 11,000-14,000; and only an estimated 14,000-165,000 certificates of customary right of occupancy have been issued under the Act, out of an estimated potential total of 8 million (Tanzania Natural Resource Forum, 2012). In Uganda, no communities have secured collective titles. In Liberia, whilst 2.5 million hectares of collective community deeds were secured before 1988, since then the Public Lands Act of 1973 has not been used to secure community land, though the Community Rights Act of 2009 is offering a possible way forward (Knight *et al.*, 2012).

Ethiopia and Madagascar are exceptions here in terms of pace and scale of titling, although only in issuing individual titles. In Ethiopia, millions of titles have reportedly been issued since 2005 (Alden Wily, 2012). Key reasons for lack of progress include inadequate funding, training or human resources at the local level; lack of clarity over roles and responsibilities of newly decentralised local authorities; overly complex and bureaucratic procedures; lack of knowledge amongst communities about demarcation and registration processes; and costly surveyor fees (Knight *et al.*, 2012; Djiré, 2007; Toulmin and Quan, 2000). Neither is collective registration of customary rights a panacea, given risks associated with simplifying complexity, and the risks of generating new insecurities or conflict, in particular excluding those with secondary rights to community land (Toulmin and Quan, 2000).

Some legal concepts contribute to undermine the security of local land rights in the face of incoming investment. Legal protection is often subject to demonstrable 'productive use' of the land, for instance under *'mise en valeur'* requirements found in the legislation of much of Francophone Africa (e.g. Cameroon, Mali and Senegal). Outside francophone Africa, similar land use requirements are found for instance in Tanzania's Village Land Act 1999.¹² In these cases, land management institutions may be mandated to monitor productive use, and to reallocate land to third parties in

12. Section 29.

case of non-use. This makes grazing lands and communal forests susceptible to being categorised as unused or unproductive – and therefore ready to be allocated to outside players.

Also, in virtually all countries there exists a legal concept of ‘public purpose’ which enables expropriation of privately held land rights for projects in the public interest. But public purpose is usually poorly defined, and it sometimes explicitly includes commercial projects, for instance in Tanzania. Some laws require local consultation but may be vague on the legal meaning of the outcome of the consultation. In Mozambique, for instance:

the outcome of a consultation process is the minutes of the community meeting. The minutes are not a legally binding contract, and no sanctions are in place in the event that private investors do not respect the promises made to the community. Rare exceptions exist, however, when conflicts break out and a more specific compromise agreement is then developed. A legally binding document would be a more effective way of protecting local interests – not only in biofuels but also in other sectors. (Nhantumbo and Salomão, 2010:21)

In Zambia, approval by customary chiefs must be obtained for any alienation of customary lands into leasehold (Mujenja and Wonani, 2012), and chiefs and district authorities are legally required to consult their constituency and to certify that people’s interests and rights are not being encroached upon (German *et al.*, 2011), but chiefs are under considerable pressure from central authorities to relinquish their land (*ibid.*). Sierra Leone is reported to have enshrined the principle of FPIC as a requirement for an investment, but the legal basis is yet to be identified (Oakland Institute, 2012; SLIEPA, 2010). Most laws require some level of compensation. But compensation laws are largely vague on details, including for instance in relation to valuation standards. For example in Mali, users of customary land are only compensated for the added value of their crops and not the land itself, with obvious implications for fallow, forest and grazing land (Mushinzimana and Diallo, 2009). Where consultation and compensation requirements do exist, the literature on the land rush consistently demonstrates shortcomings in the implementation of these two procedural and distributive elements (e.g. Nhantumbo and Salomão, 2010; Sulle and Nelson, 2009; Mushinzimana and Diallo, 2009).

Roles and responsibilities of local leaders

Where control over land is in the hands of local leaders, rather than the central governments, local participation and transparency are not necessarily stronger. In Ghana, where customary authorities play a primary role in land allocations, legislation emphasises the fiduciary obligation of chiefs and family heads to perform their functions for the benefit of their community or family.¹³ In practice, however, customary chieftaincies enjoy considerable latitude in the exercise of their natural resource responsibilities. Evidence suggests that these requirements may have little

13. Article 36(8) of the Constitution.

impact on land relations within the community. In Ghana, a breakdown in customary mechanisms to hold chiefs to account is making local landholders vulnerable, with chiefs having transferred large areas of land for biofuels projects (Schoneveld *et al.*, 2011; Tsikata and Yaro, 2011; Wisborg, 2012). Many chiefs have engaged in appropriating lands for personal use, and in renting or even selling it to outsiders for personal gain. Ghanaian law does require consent of the principal elders in the community for such transactions (*Allotey v. Abrahams*); but lack of consent makes transactions voidable rather than automatically void, and time-consuming processes are required in order to void them. Also, chiefs may come under pressure from state authorities to make land available to investors, as has been documented in Zambia (German *et al.*, 2011). Finally, several states have brought in requirements for large land allocations to be approved at the national level (e.g. in Ethiopia, where all foreign investment over 5000 hectares must be approved by the federal government), indicating that a trend may be underway toward a recentralisation of land governance.

Legally driven gender-differentiated land rights

For a long time, land legislation tended not to directly tackle gender issues. However, some laws adopted since the 1990s have paid greater attention to gender equity, by embracing the principle of non-discrimination, abrogating customary norms, presuming joint ownership of family land, outlawing land sales without consent of both spouses, and providing for women's representation in land management bodies. For instance, under the Mozambican Land Act 1997, both men and women may have rights in state-owned land.¹⁴ In Tanzania, the Land Act 1999 explicitly affirms the equality of men's and women's land rights, spousal co-ownership of family land is presumed, consent of both spouses is required to mortgage the matrimonial home, and in case of borrower default the lender must serve a notice on the borrower's spouse before selling mortgaged land.¹⁵ Moreover, a 'fair balance' of men and women is to be ensured in the appointment of the National Land Advisory Council.¹⁶ Similarly, the Village Land Act 1999 prohibits discrimination against women in the application of customary law, and when a village council is deciding on an application for a right of occupancy.¹⁷ Under Uganda's Land Act 1998, specific provisions ensure women's representation in the Uganda Land Commission, in Land District Boards and in parish-level Land Committees.¹⁸ Moreover, while decisions on land adjudication concerning customary rights are to be made according to customary law, decisions denying women access to ownership, occupation or use are null and void.¹⁹ Although selling, leasing or giving away land requires the consent of the spouse,²⁰ a clause introducing the presumption of spousal co-ownership,

13. Articles 10(1) and 16(1).

14. Sections 3(1)(c) and 3(2), 112(3), 131(3)(d) and 161.

15. Section 17.

16. Section 20(2) and 23.

17. Sections 48(4), 58(3) and 66(2).

18. Section 28.

19. Section 40.

initially included in the Bill passed by the Parliament, was excluded by the President from the gazetted text. Judicial decisions have also played an important role in determining women's land rights, particularly by invalidating discriminatory norms on constitutional grounds (see for instance the cases *Ephrahim v. Pastory and Another*, from Tanzania).

It is difficult to assess the difference that these gender-progressive legislative and judicial interventions have made on the ground. In many countries, the implementation of laws protecting women's rights is constrained by entrenched cultural practices, lack of legal awareness, limited access to courts and lack of resources. These implementation problems are generally more severe in rural areas than in urban areas. In these cases, effective interventions to improve women's land rights need to include not only legislative reform but also concrete steps to bridge the gap between law and practice. The limited implementation of legislation protecting women's rights, coupled with entrenched socio-cultural practices and customary norms that discriminate against women, increase the vulnerability of women within the context of the global land rush.

3.2 Investment promotion under national law

Since the early 1990s, there has been a profound shift in the roles of government and the private sector in development paradigms, with governments increasingly looking to private investment to play a critical role in the promotion of economic development. Many African countries have adopted law reforms to attract foreign investment, including liberalisation reforms aimed at removing or easing entry requirements; measures to protect large-scale investment through legal safeguards and remedies against discriminatory or arbitrary treatment; facilitation of investment inflows, for example through one-stop-shop investment promotion agencies; and tax incentives for large-scale investments. Agriculture modernisation policies have been adopted in several African countries – including, for example, Ethiopia's Proclamation 29/2001, which established the Agriculture Investment Support Directorate; Tanzania's Kilimo Kwanza ('Agriculture First') resolution; Senegal's Agro-Sylvo-Pastoral Orientation Act of 2004; and Mali's Agriculture Orientation Act of 2006. Many such policies emphasise the role of public-private partnerships and of large-scale investments alongside direct support to smallholders.

Several governments have made efforts to identify 'idle' land and make it available to prospective investors. 'Land banks' have been discussed, for example in Ghana and Tanzania, but rarely fully implemented. In Zambia, the government launched a 'farm block' system in 2002 to open up farmland for commercial agriculture. Central authorities work with local authorities to identify land for inclusion in farm blocks. The farm block programme also promotes outgrower schemes, whereby existing land users can be contracted as outgrowers, or households can access a piece of land to become outgrowers (Nolte, 2012). For some, efforts to identify 'idle' land display parallels with past *terra nullius* narratives and can lead to enclosures and

dispossession (Makki and Geisler, 2011; Borrás and Franco, 2010b), countering progress towards recognition of customary tenure. The lack of transparency that tends to characterise inventory exercises that identify 'unused' or 'empty' land for allocating to investors makes it difficult for citizens to critique or contest the methodologies or criteria used (Lavers, 2012).

3.3 Participation, transparency, safeguards and recourse in decision-making

Most land deals have been negotiated behind a veil of secrecy. There are few requirements on investors or even states for transparency of land deals, and freedom of information rights are limited in many countries. Only six African countries have passed national freedom of information laws that would enable citizens to gain access to information held by government agencies (Angola, Ethiopia, Liberia, South Africa, Uganda and Zimbabwe; UNESCO, 2012). Implementation of these laws is also weak. A comparative study that reviewed Uganda's freedom of information legislation concluded:

'Some of the more positive aspects of the Law are a narrowly drafted, for the most part, regime of exceptions, including a developed set of exceptions to exceptions. The procedural guarantees are also well-developed and, again for the most part, progressive, particularly as regards notice, which is required to be provided in some detail at every step. Importantly, the Law provides protection for whistle-blowers, or those who disclose evidence of wrongdoing. On the other hand, the Law contains only a very limited regime for proactive or routine publication of information, contrary to the trend in some of the more recent right to information laws. The Law also fails to establish an independent oversight mechanism, so that the only recourse for a refusal to provide access is the judicial system. The Law also contains an extremely rudimentary set of promotional measures, which can be a barrier to successful implementation.

Indeed, implementation of the Law remains elusive. Implementing regulations have still not been adopted as this goes to print, over two years after the Law was adopted, and this has prevented proper implementation. Efforts are currently underway to see regulations adopted but it remains to be seen whether these will be effective, and if so when.' (Mendel, 2008:112)

Only Liberia has legislation that explicitly requires public disclosure of contracts once the deals are approved by parliament. The lack of transparency in relation to ongoing negotiations and signed contracts makes it difficult for citizens to scrutinise public action and hold decision-makers to account (Cotula, 2010; Global Witness *et al.*, 2012).

Devolution of land management responsibilities to local governments is one mechanism through which legislation can facilitate local participation in decision-making concerning land allocations. In Senegal, legislation vests land management

responsibilities with elected rural councils.²¹ Similarly, in Tanzania, the Village Land Act 1999 designates village councils, which are the lowest level of local government and are elected by the village population, as the collective manager of 'village land'. However, decentralisation per se is not sufficient for more inclusive decision-making. Concerns have been raised as to the existence of appropriate human, economic and other resources within local government bodies in many parts of Africa – resources that are indispensable for local governments to exercise their responsibilities. Checks and balances against intra-community elite capture are meant to be provided by the democratic process characterising elected local government bodies – including non-discriminatory universal suffrage and democratic accountability mechanisms. Elite capture problems may nonetheless exist, with the elected council being dominated by a few families having stronger (land tenure or other) status under customary law, greater capacity to mobilise resources from the outside world through political or other connections, or access to economic resources.

Environmental and social impact assessment (ESIA) requirements aim to provide a safeguard in the process of land allocation for a large-scale investment, and to ensure that risks are identified and mitigated. Many recent national laws on environmental protection include impact assessment requirements (e.g. Mali, Cameroon, Ghana). But the scope of these requirements is often unclear, including with regard to their application to land deals for agriculture. Also, social impact assessment requirements have received less attention than EIAs, and may not feature at all in domestic legislation. Legislation may lack clarity over the timing, the standards, the independence of the assessor, the public disclosure requirements, and the extent to which a permit of project implementation is contingent on responsiveness to the recommendations and implementation of a mitigation plan. Impact assessments may also fall under the remit of under-resourced Ministries of Environment, which often lack robust enforcement powers. Several cases reported in the literature suggest that impact assessments can get sidelined in investment processes, if implemented at all. For example, only three out of nine oil biofuel plantations studied by Schoneveld *et al.* (2011) had an environmental permit.

Another important safeguard relates to legal recourse to challenge the legality of decisions that have been taken. For example, in Ghana aggrieved persons can seek a judicial review of the issuance of environmental permits (Environmental Assessment Regulations of 1999), of leasehold titles (Land Title Regulation of 1986), and of misconduct by customary chiefs (Chieftaincy Act of 2008). In Tanzania, the Village Land Act of 1999 provides that complainants may take disputes e.g. on compensation amounts to the Ward Tribunal, District Land and Housing Tribunal and to the Land Division of the High Court (Sulle and Nelson, 2009; Alden Wily, 2003). Comparable judicial review mechanisms to challenge the legality of government action exist in virtually all legal systems. In addition, people affected by land deals may bring lawsuits against the companies acquiring land.

21. Article 195 of Law 96-06 of 1996.

These legal routes have indeed been used in the global land rush, and some examples of recent court cases are discussed in Chapter 4. It should be noted, however, that access to legal remedies remains difficult for most people in rural Africa, due to widespread lack of legal awareness, lack of the significant resources needed for litigation, a mistrust of courts and deference towards government and chiefly authorities.

3.4 International law and standards²²

International legal frameworks governing investment and human rights have evolved substantially in recent decades. However, they have been progressing at diverging speeds, resulting in different levels of protection for investors and for people affected by the investments (Cotula, 2007 and 2012a). A booming number of bilateral investment treaties facilitate investment flows by safeguarding company assets. For example, investment treaties usually require governments to treat investment in a 'fair and equitable' way, and require compensation for direct or indirect expropriations. They also enable investors who feel wronged by host governments to bring disputes to international arbitration. Arbitral awards are legally binding and are assisted by relatively effective international enforcement mechanisms. While international investment law offers no absolute sanctuary against adverse state action, it does provide relatively effective protection for foreign investment. On the other hand, human rights law that would protect rural populations features substantial shortcomings in both content and legal remedies. Several internationally recognised human rights would be at stake in LSLAs, including the right to property, the right to food and the right of indigenous peoples to self-determination.²³ But key legal provisions remain unspecific, undermining the normative content of these rights. For example, the African Charter on Human and Peoples' Rights does not explicitly require states to pay compensation for a failure to safeguard the right to property. Also, differently to investment treaties, international human rights law typically requires complainants to pursue all national remedies first, though a few exceptions exist – for example, the Court of Justice of the Economic Community of West African States (ECOWAS), which rules according to the African Charter on Human and Peoples' Rights (ACHPR) and issues decisions that are legally binding on ECOWAS member states. The African Commission on Human and Peoples' Rights, the most longstanding continent-wide human rights institution, only issues non-binding decisions. Only half of African states are party to the protocol establishing the African Court of Human and Peoples' Rights, which differently to the Commission issues legally binding judgments; so the court is inaccessible to many. And only one African state has ratified Convention No. 169 of the International Labour Organization on indigenous and tribal peoples, which upholds in specified circumstances the right of indigenous and tribal people to FPIC.

22. This section is based on Cotula (2007) and (2012a).

23. On the relevance of the right to food, see for example De Schutter (2009).

Despite these limitations, there has been growing use of international human rights institutions in relation to land rights issues, albeit to date without direct relevance to the land rush. Violations of the right to property linked to a land conflict were alleged in the ACHPR case *Bakweri Land Claims Committee v. Cameroon*, but the complaint was declared inadmissible due to non-exhaustion of domestic remedies. The recent decision by the African Commission on Human and Peoples' Rights in *CEMIRIDE and Minority Rights Group International v. Kenya* concerns a pastoralist group – the Endorois – that the Kenyan government dispossessed of its ancestral lands by establishing a game reserve in 1973, issuing a ruby mining concession in 2002 and selling parts of the land to third parties. Compensation for evictions following the establishment of the game reserve were paid only to a limited number of families (170 out of 400), were grossly below market values and were only received 13 years after resettlement.²⁴ The African Commission found that several aspects of Kenyan law had not been complied with, including the constitutional requirement on 'prompt payment of full compensation'. Non-compliance with national law constituted a breach of article 14 of the African Charter, as this requires compliance with the provisions of 'appropriate laws'.²⁵ In addition, the Commission found that, although a public interest may have been at stake, the forced eviction of the Endorois was 'disproportionate to any public need'.²⁶

The increase in investment activity in the global South has sparked a movement for better management of the social and environmental dimensions of such investments through the international development of principles and standards. The Special Rapporteur on the Right to Food developed a set of Principles on LSLAs from a human rights perspective (De Schutter, 2009). The International Finance Corporation (IFC) and the Organisation for Economic Cooperation and Development (OECD) have revised their performance standards and guidelines, respectively (2011). IFC performance standards provide normative guidance even in cases where IFC finance is not involved. By virtue of the Equator Principles, a number of commercial banks have agreed to apply IFC performance standards for certain types of lending. The UN Special Representative on Business and Human Rights clarified the human rights responsibilities of private sector players and developed Guiding Principles that were unanimously endorsed by the UN Human Rights Council (Ruggie, 2011). Industry-based multi-stakeholder platforms like the Roundtable on Sustainable Palm Oil (RSPO) and the Roundtable on Sustainable Biofuels have established sets of commodity-specific guidelines. It is early days to assess impact of all of these processes. Their normative value is likely to suffer from challenges of enforcement and reliability, though recourse mechanisms for some of these systems have become more effective – as illustrated, for instance, by recent changes to complaint procedures under the OECD Guidelines on Multinational Enterprises. The Liberia-1 and Cameroon-1 cases, discussed in Chapter 4, give some indication that the RSPO grievance mechanism is forcing a degree of responsiveness on the part of companies.

24. Para. 110-112 of the African Commission's decision.

25. Para. 219-237.

26. Para. 213-214 and 218.

Efforts have also been made to develop international guidance on the management of land and natural resources. At the global level, the recently adopted FAO Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests in the Context of National Food Security indicate a consensus that addressing land governance is today a matter of global concern. The guidelines include both detailed and unspecific recommendations, due to the nature of international negotiations upon which they were based. In Africa, the African Union developed Land Policy Guidelines and Framework, and the Land Policy Initiative led by the African Union, the United Nations Economic Commission for Africa and the African Development Bank is now working to promote implementation of that framework.

3.5 Transnational legal relations

The national law of the investor's home country may also play a role in regulating land deals in Africa, for instance where third countries claim extraterritorial jurisdiction in certain matters and open the door to the possibility of transnational litigation. 'Transnational litigation seeks to use the law of the company's home state (i.e. where it is domiciled) to hold the company liable for compensation for activities undertaken overseas' (Newell, 2001:85).

In the United States, for example, the Alien Tort Claims Act (ATCA) of 1789 grants jurisdiction to US federal courts over 'any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States'.²⁷ Based on this legislation, US courts have been prepared to hear cases involving violations of internationally recognised human rights overseas, irrespective of whether the plaintiff or defendant are related to the United States (see the rulings in *Filartiga v. Pena-Irala*, *Kadic v. Karadzic*, and *Doe I v. Unocal*). But despite a flurry of transnational lawsuits brought against corporations in the United States, recent judicial decisions have cast doubt as to whether ATCA can be used to sue corporations – because customary international law only confers jurisdiction over natural persons (*Kiobel v. Royal Dutch Petroleum*; see Prihandono, 2011). A case on this matter is now pending before the United States Supreme Court.

In other jurisdictions, transnational litigation is based on general tort law rather than a special statute. In the United Kingdom, for instance, the House of Lords ruled in two separate cases that it had jurisdiction, under specified circumstances, to hear cases brought by people who claimed to have suffered damage as a result of actions committed by companies operating overseas and controlled by British business (*Connelly v. RTZ Corp plc*; *Lubbe and Others v. Cape plc*). But neither case was decided on the merits, as disputes were settled out of court after the jurisdiction finding.

27. 28 U.S.C. § 1350. On the growing number of cases brought under this provision, see the website <http://www.business-humanrights.org/Categories/Lawlawsuits/Lawsuitsregulatoryaction/AlienTortClaimsActUSA>.

These legal developments open new opportunities for accountability (Newell, 2001). They may enable people affected by large land deals to by-pass the limited independence of courts in the host country, to get higher damages awarded, and to obtain judgments that are easier to enforce against companies. But it is easy to overestimate the significance of transnational litigation. Exacting legal and practical barriers restrict the availability of this option in most cases. Two legal barriers exemplify this. The parent company and the subsidiary operating overseas are separate legal entities, and courts have been prepared to pierce the corporate veil only in very specific circumstances. Also, under the *forum non conveniens* doctrine, a court can refuse to hear a case where there is some other available forum in which the case may be tried more suitably. In this type of litigation, the most obvious 'forum' to hear the dispute is the courts of the host country, where the investment and alleged violations took place. Only in rare circumstances have courts found it possible to set aside the *forum non conveniens* doctrine – for example, for English courts, where 'substantial justice will not be done in the alternative forum' (*Connelly v. RTZ Corp plc*; *Lubbe and Others v. Cape plc*). In most cases involving claims of human rights violations, the plaintiffs would also need to show that the company acted in collaboration with the government, which is the duty-bearer under international human rights law. Restrictions on *locus standi* – the need to prove a direct interest in the dispute to be able to bring the lawsuit – may also come in the way. And in addition to this array of legal barriers, the practical difficulties, including financial costs, of launching transnational litigation are likely to prove insurmountable in most cases. Enforcing the judgement and collecting the remedy in the cases the court rules in favour of the claimant may also prove challenging.

The national law of the investors' home countries can also be relevant in other ways – for instance, in relation to the criminal prosecution of corruption. In the United States, the Foreign Corrupt Practices Act makes bribing a foreign public official by a US-based company in order to obtain or retain business a criminal offence under US law. The legislation is enforced by the US Department of Justice, though other agencies can also activate civil enforcement (e.g. the Securities and Exchange Commission in relation to companies listed on US stock exchanges). Other capital-exporting countries have more recently adopted similar legislation, including in order to implement the 1997 OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions. In practice, however, the number of prosecutions based on this legislation remains limited, not least because governments fear that a zealous approach to enforcement may place its companies at a disadvantage against foreign competitors. Also, there are ways to get round anti-corruption legislation, including for example the use of intermediaries or transferring shares instead of cash.

3.6 Summary of key findings

Legal frameworks provide some opportunities for protecting the land rights of rural people in Africa and for holding decision-makers to account. These opportunities are particularly linked to recent law reforms to strengthen the recognition of customary land rights, some freedom of information legislation, developments in international human rights law and new opportunities created by transnational litigation. As will be discussed in Chapter 4, the law has provided the basis for some local-to-global response strategies, namely in the form of lawsuits aimed at challenging land deals or their terms and conditions.

Overall, however, the law regulating LSLAs tends to undermine pathways to accountability. When land becomes of interest to commercial investors, the legal options available to local groups are few – and so is the overall effectiveness of the opportunities for public accountability created by the law. In many contexts, it is perfectly legal for a government to allocate land to a company with minimal consultation and transparency, and with paltry compensation payments for local groups. Negotiations between governments and companies usually happen behind closed doors. Only rarely do local landholders have a say in those negotiations. This legal regime creates real risks that local people are marginalised in decision-making and dispossessed of their land. The implementation of progressive land tenure reforms that could counter these risks has been slow and often ineffective. Advances in international human rights law have not kept the pace with the substantial safeguards that international law has come to accord to foreign investment (Cotula, 2012a). And advances in transnational litigation are unlikely to benefit many of the people affected by large land deals, due to both legal and practical barriers.

Ultimately, much depends on how legal frameworks are appropriated and used by citizens in their accountability strategies. Promising legal entries may remain underutilised – or citizen action may push the boundaries of applicable law. It is now time to explore citizen action for accountability in greater detail.

4. Citizen action for accountability: what is working?

'The concession was signed without our input of express how we feel about it. We were not given the chance to see the document at all. Our Legislators never came to us to specifically discuss the issues surrounding the concession. This is why we voted all the old ones out.' (Testimony from community dwellers affected by palm oil operations in Liberia, reported by Walker *et al.*, 2012:20)

This chapter presents the analysis of 16 case studies across 12 countries drawing on information in the public domain and the available literature. It discusses the ways in which a range of stakeholders – from people directly affected by land acquisitions through to international players acting on their behalf – have sought to hold decision-makers to account for decisions concerning LSLAs.

The chapter develops a typology of citizen accountability strategies and of the actors leading them. Response strategies include varieties of formal and informal accountability mechanisms, and varying combinations of individual through to collective action. The chapter is organised in three parts, aiming to bring to light three core elements of accountability strategies: i) actors and institutions; ii) mechanisms and fora; and iii) outcomes of/responses to citizen action. These three elements are interlinked, but disaggregating them is a step towards understanding how they intersect. The literature that documents citizen action has not systematically analysed the actors-action-outcome chain of causation. This desk-based study does not therefore attempt to draw conclusions on causal relations between specific actors or strategies and outcomes, which more in-depth comparative field research methods would tackle more effectively. Instead, our approach identifies trends in these three arenas, and analyses the kinds of factors that facilitate or impede pathways to accountability.

It is important to flag at the outset that struggles over land do not start the day an investment arrives. Investors enter arenas of uncertain land tenure, latent tensions and historical conflicts between groups of land and resource users, between local authorities with overlapping mandates over land, between or within communities, and rivalries along party political lines. In some cases, opposition to an investment project may just be the latest manifestation of a long-standing conflict among local actors. In Ghana-1, for example, opposition to the investment was partly rooted in local landholders and farmers feeling that the traditional council had been giving their land away for a long time, including to Fulani pastoralists, which had already sparked conflict (Wisborg, 2012). Farmers then felt squeezed between a company plantation and earlier land acquirers (*ibid.*). Multiple pressures on land may also be involved, beyond the individual land deal examined. In Mozambique-1, the land allocated was not only used for grazing, but a number of communities were going to be resettled there from within a national park established a few years before the land deal was approved (Borras *et al.*, 2011). These contexts shape who is being held to account, how, to what effect and the conditions that hinder justice and equity outcomes.

Finally, most of the evidence available in the existing literature focuses on instances where local to global players have opposed or contested LSLAs. This could reflect a real trend. Large land deals can exacerbate competition for valuable land, and it is not surprising that many deals have been associated with reports of land conflict. It is also possible, however, that more collaborative strategies do exist but have attracted less attention in research and the media. Given the diversity of local interests in rural Africa (e.g. from small-scale, commercial farmers integrated into global value chains to the landless poor), it would seem reasonable to expect LSLAs to have differentiated impacts on local livelihoods, and contestation and cooperation to coexist in many cases. Furthermore, contestation resulting in confrontations and violence are the more newsworthy of accountability strategies. Due to limitations in the literature on LSLAs to date, media sources have been drawn upon and as such may present an imbalanced picture of local accountability strategies, and thereby some limitations to the review presented in this chapter.

4.1 Actors and institutions: who engages in citizen action and why?

Farmers and local landholders

The first actors to consider are the farmers and landholders who are directly affected by LSLAs. In many instances, villagers have been at the forefront of citizen action, often in alliance with other players at the local, national and international levels. Collective action is a common approach to increasing voice and representation, sometimes forming new organisational structures to coordinate responses. For example, in Senegal-1 and -2 land acquisitions prompted the formation of two 'collectifs' (*Collectif de Défense des Terres de Fanaye*, and *Collectif des Paysans sans Terres de Diokoul*, respectively).²⁸ Comparable organisational structures were also set up in relation to Sierra Leone-1 (Malen Land Owners Association).²⁹

These associations appear instrumental but developing a single representative mechanism for multiple voices is not always straightforward. In any one community, farmers may be divided on the question of potential benefits emerging from LSLA, and the resistance from one group may hide another group's support for the investment. Also, resistance by one group may hide grievances of other politically marginalised groups, as may be the case for women, pastoralists, youth or elders. In Senegal-1, a vote held following a rural council meeting resulted in a 23-for/21-against outcome. However, this consultation was reportedly later disputed by some councillors who felt that the meeting was at too short notice (24 hours), that the decision was a 'done deal' and that the process failed to consult with local people and village chiefs (Pambazuka, 2011; Koopman, 2012). In Ghana-1, those consulted were divided between those who were reluctant to give up land and those who were satisfied that jatropha would be grown on less fertile grassland. Furthermore, in this latter case, 'women are prominent landowners but discriminated

28. Pambazuka (2011) and CICODEV (2011).

29. Oakland Institute (2012).

in the political system. No special consultation with them was held and a respondent told that it was hard to raise their concerns, as the decisions seemed to have been taken already' (Wisborg, 2012:5). Lack of local consensus about the benefits of specific land investments impacts on the kinds of action taken and demands made on authorities.

Because local communities are not homogeneous, the ways in which citizens are represented locally in consultation processes critically affect the outcomes of the consultations. In Senegal, elected rural councils are the legally mandated authority to sign a memorandum of understanding with investors (*Procès Verbal, Accord de Principe*),³⁰ but discontent has arisen in several cases based on inadequate representation. In Senegal-1, the rural council's vote in favour of the investment was contested by the local chiefs who felt that they were not consulted. In this case, collective action by local landholders resulted in local residents being received by the President, who reportedly agreed to cancel the deal (EuropeAfrica, 2012). Similarly, in Senegal-2, the local *collectif* also emerged out of discontent about the consultation process led by the rural council. In this case, opposition to the deal became formulated in terms of party politics, rather than injustice caused, and inadequate representation pushed those affected to seek redress through protest rather than formal democratic channels (CICODEV, 2011).

Collective grassroots initiatives may have limitations in terms of local knowledge about legal rights and procedures, and of the political leverage needed to carry demands to higher authorities in charge of the land. These endogenous groups appear to benefit from support by broader coalitions of organisations, ranging from diaspora associations and international campaigning groups, to political opposition groups or local, national and transnational social movements. In Liberia-1, local landholders submitted a letter of complaint to the RSPO, of which the company is a member, stating that their awareness of the company's RSPO membership and their rights under RSPO standards and procedures was based on information from a local civil society organisation (CSO) (Samukai and Balloe, 2011). In Sierra Leone-1, the actions taken by the local landowners' association gained exposure in the media and at the national level when national and international NGOs conducted research into their case and organised public fora (Provost and McClanahan, 2012).

Farmers associations

Farmer associations play an important role in convening the voices of local farmers, but they are not equally active in all African countries. In francophone West Africa, farmer associations have been particularly vocal in lobbying against 'land grabs'. They play a support role for farmers but also a linking role to national level policy. In Mali, for example, the *Coordination Nationale des Organisations Paysannes* (National Coordination of Peasant Organisations, CNOP) and the *Association des Organisations Professionnelles Paysannes* (Association of Rural Producer

30. Faye et al. (2011:23).

Organisations, AOPP) have a long history of support to small-scale farmers, and feeding their knowledge and experience into agricultural and land tenure policy in Mali (Heegde *et al.*, 2011). These associations have been particularly active in the Office du Niger area, one of the most fertile areas in the Sahel, which has seen a multiplication of LSLAs in the last decade (Djiré and Keita, 2010). Farmers associations, however, are not always representative nor politically independent. In their study of accountability in Senegal, Kaag *et al.* (2011:27) note that 'large-scale farmers and the leaders of agricultural organisations may, for instance, also be elected officials.' They suggest that while farmer associations are successful at mobilising higher scale organisational support, the affiliation of some of their members to party politics can undermine their legitimacy in the eyes of local farmers and local authorities (*ibid.*).

In addition to being an intermediary between farmers and governments, these associations are also a crucial link between local, national and transnational unions and social movements. In Senegal, for example, the *Conseil National de Concertation et de Coopération des Ruraux* has been particularly active and influential in consultations regarding the formulation of land reforms and LSLA issues at the national level (see Touré *et al.*, 2012). CNOP in Mali has been instrumental in mobilising support from regional and international organisations and networks, including the *Réseau des Organisations Paysannes et de Producteurs de l'Afrique de l'Ouest* (Network of Farmers' and Agricultural Producers' Organisations of West Africa), Via Campesina and FIAN (FIAN, 2011; Inter-réseaux Développement Rural, 2011). These networks and organisations have collectively convened local and international meetings, drawing international attention to LSLAs in West Africa. One particular meeting held in Nyéléni in November 2011 achieved high visibility of local voices on issues pertaining food sovereignty and LSLAs, and raising local awareness of networks on the rights and responsibilities of investors towards farmers (FIAN, 2011; Provost, 2011).

Local and national NGOs

NGOs with widely differing mandates, objectives and operations have been instrumental in accountability strategies across the cases reviewed. In general, they play a role in linking the local to the national, conveying local voices through to national authorities and the media, mediating dialogue between local stakeholders, national and international researchers and activists, and providing training, capacity building and the means for travel for local farmers to participate in advocacy or policy events. NGOs have supported research and documentation of local grievances. NGOs may also be the source of legal aid. For example, in Sierra Leone-1, a national NGO reportedly facilitated access to legal support to ensure that demonstrators that had been arrested could have their rights protected (Oakland Institute, 2012). In Senegal-2, a national NGO was actively engaged in pursuing the release of 12 farmers who had been arrested for damaging investor property (Seneweb, 2012).

National coalitions of organisations working on land issues, usually mandated by their membership, have also played a role in raising national level awareness on land acquisitions (Uganda-1,³¹ Sierra Leone-1³²). They play a convening and knowledge-sharing role, are often the key interface between civil society and the government, and will likely be engaged in broader land policy reform debates. In Sierra Leone-1, a national network has been established in response to the most recent wave of acquisitions.³³ Support to citizens' initiatives by national coalitions varies depending on their mandate, particularly how tied they are to a convening role. Taking positions and forming links with international activist networks may expose them to government backlash, with significant impact on political space – as will be further discussed below.

Local figures – other civil society actors that are not necessarily affiliated to a network or organisation or directly focused on land rights – may step up or be called upon to champion the demands of local citizens, particularly when they already have significant political leverage in specific countries, or a history of support with specific local groups. Religious organisations in Uganda-1 and Mozambique-1 have played a role in protecting local interests. For example, members of the Christian Council of Mozambique reportedly spoke out on behalf of communities affected by Mozambique-1, whom they had previously supported in an earlier case of displacement from the Limpopo National Park (Borras *et al.*, 2011).³⁴

International NGOs and diaspora associations

International NGOs have played an important role in gathering evidence to support bottom-up strategies. They have funded the publication of many case study reports, including several sources used in this study, and mobilised transnational support to farmers impacted by LSLAs. Diaspora groups are included here, likely believing they have an opportunity or responsibility to use their political freedoms to target politicians in the host states (as well as home countries where relevant) (e.g. Ethiopia-1,³⁵ Madagascar-1³⁶). Awareness-raising on local contexts and lobbying development agencies, governments and investors for a greater consideration of human rights is a common thread through their engagement (see e.g. Gadaa, 2012; Birara, 2012; Mittal, 2012; Solidarity Movement for a New Ethiopia, 2012, Wisborg, 2012). Their actions are diffuse and multi-scale, sometimes with direct representation of local voices, sometimes contributing comments to consultation processes on international norms, standards and guidelines. They have also supported many national NGOs including in supporting and developing research/publications, communiqués and letters, technical advice but also awareness-raising on rights. Finally, they have also played a role in linking local concerns and national platforms with international policy debates (e.g. on the

31. Matsiko (2012)

32. Provost and McClanahan (2012).

33. See www.SILNoRF.org.

34. On Uganda, see the Uganda Land Alliance website: <http://ulaug.org/land-grabbing/>.

35. Gadaa (2011, 2012).

36. Burnod *et al.* (2011).

proposed Principles on Responsible Agricultural Investments, or on FAO's Voluntary Guidelines on the Responsible Governance of tenure of Land, Forests and Fisheries with the Context of National Food Security).

The extent to which international organisations are genuinely accountable to their claimed constituents is often unclear and also not discussed in the literature. This issue exposes NGOs to questions about the legitimacy of their claims for justice, for instance where governments argue that local resistance is steered by foreign agents (e.g. Ministry of Foreign Affairs (Ethiopia), 2012; Matsiko, 2012). Overstepping acceptable watchdog activities in the eyes of authorities can also risk an organisation's ability to continue working. In Uganda-1, a national 'anti-land grab' campaign involving an international NGO and a national NGO coalition prompted a response from the Ugandan government, reportedly including threats to deregister certain NGOs (Matsiko, 2012). This appeared to shift public debate, as it was represented in the media, around the legitimacy of these NGOs, rather than around evictees' grievances.

Activist networks in investor home countries have also mobilised campaigns targeting the institutions that are accountable to them – namely their own governments. In Tanzania-1 and Ghana-1, CSOs in Sweden and Norway respectively lobbied their governments regarding the ways in which national investors have acquired land or conducted EIAs, for example (Wisborg, 2012; Havnevik *et al.*, 2011). Ethiopia-1 saw US-based groups lobbying President Obama directly (News Dire, 2012). These moves may not have delivered major direct wins to date, but they have generated media attention and may have contributed to encouraging investor country governments and aid agencies to be more vigilant on the quality of investment, on land governance, and on safeguards.

Local authorities

In some sub-Saharan African countries, decentralised land administration puts decision-making regarding land allocations in the hands of local authorities. As discussed in Chapter 3, in some countries customary chiefs are lawfully recognised as land custodians, and therefore are the first legal port of call for investors negotiating access to land (e.g. Ghana). In other countries, those representing citizens on land issues are members of elected local councils (e.g. Senegal, Tanzania). Being mandated to negotiate land deals gives authorities power but also makes them vulnerable to manipulation.

In several of the cases reviewed, it is the accountability of these very local institutions that has been put into question (e.g. Ghana-1,³⁷ Senegal-1³⁸ and -2,³⁹ Sierra Leone-1,⁴⁰ Uganda-1⁴¹). However, local statutory and customary authorities do play their part

37. Wisborg (2012).

38. Pambazuka (2011).

39. CICODEV (2011).

40. Oakland Institute (2012).

41. Grainger and Geary (2011).

Box 1. Customary chiefs and downward accountability in Zambia

In Zambia, for land to be leased to an investor it must be first transferred from the customary domain to a state leasehold (German *et al.*, 2011). Legal requirements for citizen consultation are vague. Identifying land for LSLAs requires the involvement of central government agents and district council members with investors involved in the drafting of site plans which need to be endorsed locally by customary chiefs. Chiefs can be put under pressure by central land planning agents (*ibid.*). In Mporokosho District, when a chief was reluctant to cede the land, a government minister reportedly 'personally intervened, leading eventually to the Chief's acceptance'. The Minister was in fact from that district and reportedly 'did not want his district to be left out' (p.30).

in demanding greater accountability of central institutions or challenging the company directly. But of the cases reviewed, only two documented local administrations taking action on behalf of local citizens. In Tanzania-1, the Village Executive Office (the lowest level of government authority) of a village impacted by a large land deal sent a letter to the company referring to promises made by the company in an earlier meeting regarding the location of alternative land, infrastructure provision and compensation for lost crops and property (Chachage, 2010:12-13). The collectifs formed in Senegal-1 and -2 also comprised local leaders and chiefs, and in one case a group of village chiefs reportedly wrote a letter to the President copied to all relevant authorities (Pambazuka, 2011) but their direct representation role is not yet clear.

Land agencies based in central governments may steer investor behaviour to such an extent as to pre-empt meaningful consultation with local governments, leaving companies and local officials with little opportunity to negotiate, consult locally or identify conflict mitigation measures. In Uganda-1, the company was reportedly advised by the central government not to offer compensation to displaced residents (Grainger and Geary, 2011). Equally, central and local government bodies and customary authorities may see attracting investment to the area they are responsible for to be in the best interest of local people (see Box 1).

An important question that emerges here is whether democratic frameworks (e.g. electoral politics) provide more robust pathways for citizen representation than customary institutions or vice versa and why. In other words, are elected representatives more accountable than non-elected ones? The review does not provide sufficient basis for clear findings in this regard.

Opposition politicians

Opposition parties have also featured prominently at the national level in pushing forward citizens' demands for greater transparency and their complaints about consultation and compensation (e.g. Madagascar-1,⁴² Mali-1⁴³). This is an indication

42. Allaverdian (2010).

43. ViaCampesina (2011).

Box 2. Political opposition captures the accountability gap

National and international media reports of a 1.3 million hectare land deal between the Madagascan government and a South Korean company drew international attention from solidarity organisations and the Malagasy diaspora, but generated little local collective action (Allaverdian, 2010). A lack of information, weak national media coverage or rural illiteracy rates, but reportedly also fear or repercussions from public criticism of the deal are likely reasons for this (*ibid.*). Allaverdian suggests that this context and the coinciding of the deal with an emergent political crisis was significant in what followed:

'For political opponents to the government, the (...) deal represented a new tool to criticise the regime by invoking nationalistic arguments. The denunciation of the deal became highly politicised. The scandal became prominent and contributed to a coup d'état, with the resignation of several ministers and the establishment of a High Authority to manage the political transition (...) by the end of January 2009. The land deal was publicly declared 'suspended' in July 2009 by the Minister responsible for land use planning and decentralisation.'
(Allaverdian, 2010: 32; our translation)

that party politics and the election incentive for representatives to address citizens' demands is an accountability mechanism of liberal democracy relevant to citizen responses to LSLA. However, the analysis points to a need for caution regarding the extent to which these actors' involvement genuinely reflects a citizens' agenda for justice. Madagascar-1 is one example of how a controversy over land deals may be used by opposition parties (Allaverdian, 2010) (see Box 2).

Journalists and researchers

Observer institutions such as journalists and researchers have played a major role in generating evidence and information on LSLAs. Researchers from academic and activist backgrounds have conducted case study-based research and published results, often documenting the roles of different actors both in deal making and in accountability strategies. Studies have also looked explicitly at specific aspects of accountability (Kaag *et al.*, 2011). Legal analysis of the investment contracts underpinning some land deals raised real questions as to the extent to which host countries and communities are getting a fair deal (Cotula, 2011; Tienhaara, 2012; Nguiffo and Schwartz, 2012) (see Box 3). National and Western journalists have also played a part in bringing to light deals previously not in the public domain, contributing information that in some cases sparked citizen responses, as is the case in Madagascar-1 (Financial Times, 2008).

Unlike international NGOs, the legitimacy of research institutes and journalists is questioned less often, but the accuracy of their work can be. Additionally, perceived bias may be attributed by those that disagree with reported findings to political or ideological leanings. Some research reports have been effective in terms of prompting policy debates, but have also been criticised by governments on accuracy

Box 3. Challenging the legality of deals in Cameroon

In 2012, a report was published by an NGO in Cameroon reporting on detailed legal and economic analysis of a contractual agreement between a company and the Government of Cameroon for a large oil palm concession. The author's analysis and report seeks to explain 'why the palm oil concession is unlikely to promote socio-economic development in Cameroon' (Nguiffo and Schwartz, 2012:8). The scrutiny of the contract includes a detailed assessment of where financial benefits will accrue, including those from land rents, carbon credits, taxes and local employment. It sets out where key information required to be certain about the project outcomes is lacking and where figures reportedly do not add up. It also scrutinises the project's Environmental and Social Impact Assessment. Both the agreement and the ESIA are considered in light of the Equator Principles and Roundtable on Sustainable Palm Oil (to which the company was signed up to), but also the extent to which the content of the documents and the procedures for their development and approval are in compliance with national laws and the government's commitments under international law.

The report is a clear effort to address accountability gaps. It includes recommendations reportedly intended to 'help avoid conflicts between commercial land rights (...) and customary land rights (...), reassure scared investors of the legality of their land concessions and prevent the eventual annulment of certain contracts due to the non-respect of legal procedures at time of attribution (...) [and] provide important information to the general public regarding how these projects fit into Cameroon's greater development strategy.' (*ibid.*:4)

(e.g. Uganda-1,⁴⁴ Ethiopia-1⁴⁵), and in some cases investors have reacted with threats of libel when exposed to reputational risks.

4.2 Strategies and mechanisms: how is accountability pursued?

Accountability strategies take on a variety of forms, along a formal-informal continuum, across scales, and encapsulate a diversity of objectives that include raising public awareness, renegotiating the terms, increasing local benefits, 'fair compensation', and cancellation of the project. Many strategies are reactive and outcomes are unpredictable, meaning that the order of events in each case is different, albeit with common features.

Registering grievances with authorities

Making direct contact with authorities through visits or letters to register complaints, access information and make demands is usually a first port of call. Concerns may also be pursued in local planning meetings (Institute for research, training and action for Consumer Citizenship and Development (CICODEV), 2011). Letters of grievances are often sent to local and national leaders and to investors, as was the case in

44. See Statement by Ministry of Water and Environment (Uganda), available at: <http://www.mediacentre.go.ug/details.php?catId=1&item=1431>.

45. See Ministry of Foreign Affairs (Ethiopia) newstory, available at: <http://www.mfa.gov.et/weekHornAfrica/morewha.php?wi=260#260>.

Box 4. Citizens write to the President in Tanzania

'The seven villagers also point out that on 10 December 2008 three officers responsible for land stated that the President of Tanzania had ordered the transfer of land in Namwawala village to an investor. However, when these villagers followed up on 13 February 2009 by submitting a letter of enquiry to the President's Office this office could not confirm that such an order or directive was given. A letter, with reference number SAB 110/302/01, from the President's Office was directed to District Commissioner asking for a confirmation of such an order. In a response, through a letter referenced D40/31/118, the District Commissioner could not offer such a confirmation. These villagers continued to follow-up through the Morogoro Regional Commissioner and Prime Minister's Office in letters referenced TM/KJ/NML/02/09 and TM/KJ/NML/01/04/09 respectively. But the issue was unresolved. It is in this regard they sent their request and its attendant analysis, to a consortium of activists in the country through TGNP.'

Source: extract from Chachage (2010:21)

Senegal-1,⁴⁶ Senegal-2,⁴⁷ Sierra Leone-1⁴⁸ and Ghana-1.⁴⁹ In some cases, this led to more formal meetings being arranged, bringing together authorities, investors and citizens, in others this made no known impact. Why letters and visits at the local level so often fail to get a response is central to this enquiry but seldom tackled explicitly in the literature. Letter writing to high-ranking authorities (ministers, presidents), particularly where local authorities are unresponsive, appears a surprisingly generalised practice, more so where villagers are organised into committees or associations. In Senegal-1, the President's office did respond, reportedly leading to the suspension of the deal (Koopman, 2012), although this was following a series of other responses by project opponents including public demonstrations and violence (*ibid.*).⁵⁰ Tanzania-1 showed how letter-writing can lead to a dead end, leaving citizens no choice but to find alternative strategies (Chachage, 2010) (Box 4).

Petitions have also helped draw in supporters, build networks from local to transnational levels and target specific decision-makers (e.g. Madagascar-1,⁵¹ Uganda-1⁵²). In Uganda-1, 10,000 residents reportedly petitioned the Lands Minister in July 2009 demanding that evictions be stopped (Mulondo, 2009). An empathetic response from the Minister was reported (*ibid.*), but the ultimate effect of the petition is not clear. In Madagascar-1 the Malgasy diaspora collective TANY launched a petition demanding transparency on the deal, as well as the immediate halt to the all negotiations already underway, law reform, and national debate on investment and land governance frameworks.⁵³ Letters and petitions have also been

46. Pambazuka (2011).

47. CICODEV (2011).

48. Malen Land Owners Association (2011).

49. Wisborg (2012).

50. It seems this was not the end of the deal, which was later revived by the subsequent president albeit including a change of size and location (Koopman, 2012 and media sources cited in Koopman, 2012).

51. L'Express de Madagascar (2009).

52. Mulondo (2009).

53. See Petition from *Collectif pour la Défense des Terres Malgaches*, 2009 at: <http://terresmalgaches.info/spip.php?article1>.

used at the national and international level to raise awareness and to hold actors at a higher level to account (e.g. Ethiopia-1⁵⁴). These demands often draw upon local evidence gathered and legal and policy analysis to clarify responsibility for alleged non-compliance with national and international law. Direct communications provide a space for channelling specific demands to a specific target.

Demonstrations and public protest

Public protest comes in many forms and at all scales, ranging from marches and rallies to different forms of local and global direct action. This section focuses on non-violent direct action, although in some of the cases reviewed protesters resorted to violent means and/or experienced violence against them. The types of citizen action reviewed emerged largely in relation to individual deals, but in some cases in relation to the wider trends and cumulative impacts. Local protests vary in intensity and forms, but they tend to be a manifestation of failure of either formal platforms for citizen representation in land deals (e.g. consultation), or a lack of responsiveness by local governments following initial communication of grievances by citizens (e.g. Mali-2,⁵⁵ Senegal-1⁵⁶). In this sense, what is hoped to be achieved by protest seems to range from raising public awareness of citizen discontent, to more specific demands for a change in the terms of the deal.

When protest is scaled up, a greater diversity of stakeholders and objectives are involved, including potentially conflicting ones (e.g. awareness-raising on 'big-picture' issues and multiple cases versus addressing localised issues), and visibility increases. Whilst these are clear expressions of citizens' demands for accountability, escalation of protest can also reduce answerability, even though local voice may appear more powerful. This is because while escalation can increase pressure, it can also polarise opinion and reduce political space for compromise. None of the case studies describe responsiveness to a given demonstration, only political backlash, indicating that bringing protest to the national level can also generate political entrenchment and rupture of dialogue (e.g. Uganda-1⁵⁷).

Public meetings are less confrontational forms of public protest and a claiming of political and public space to express local views and those of the organisers. They are usually important media opportunities for dissenting voices. Whilst different actors (government and investors) may be invited to participate, their participation tends to be limited. Peoples' fora are popular amongst farmer organisations in West Africa. They bring actors together around a particular perceived challenge or injustice that demands a policy response. Such public meetings may be similar to public demonstrations, but with a greater emphasis on discussion and the search for solutions and a set of recommendations for greater accountability. People affected by LSLAs may be convened by a producer organisation or other civil society groups

54. News Dire (2012).

55. Oakland Institute (2011).

56. Koopman (2012).

57. Matsiko (2012).

to communicate messages to the media and the authorities (e.g. through a declaration⁵⁸). This is now also happening at a regional level (e.g. the Nyéléni forum, see above). These meetings and declarations raise critical questions about the representation of farmer voice: what is being demanded, how clear are demands, how were the demands made and how were answers pursued?

At the international level, protests have been organised on the margins of international meetings of policy makers and investors. Events around the World Bank's development of the Principles on Responsible Agricultural Investment were critiqued by NGOs and transnational alliances of farmers and indigenous peoples on the basis that 'trying to compensate for this absence of legitimacy by getting investors to adhere to a few principles is deceitful' (FIAN *et al.*, 2011). Protests against individual LSLAs have been integrated into wider movements for global economic justice, and the African diaspora have led country-specific protests (Gadaa, 2011). Private sector events have also formed the object of protests:

'Passersby stopped and watched, alongside members of the African diaspora, Occupy Wall Street affiliates and food and environmental justice groups, the illumination of the Park Avenue side of the hotel. The crowd chanted: 'Wall Street Out of Africa.' 'Starvation is not an Investment Strategy.' '1.5 million Ethiopians Being Forcibly Relocated.' Protesters wielding these 'agriculture 101' slogans were outside the Waldorf to get the message to the fund managers and investors inside, at the Global AgInvestment (GAI) Conference, seeking strategies to grow their monies through 'ag-investment' in poor nations.' (Mittal and Furman, 2012)

The mobilisation of coalitions through protest and demonstrations has raised public awareness and popular opposition to individual cases, to continuing land-based investment trends, and to global policy measures. How international mobilisation on individual land deals relates to local-level experiences and protests around the same deals is not always clear. One effect of global protest may be to politically and ideologically polarise the way LSLAs are analysed. Ultimately the individuals and institutions at the source of protest influence how demands are formulated and communicated. Whether or not and how grassroots actors emerge and organise themselves and pursue collective action is an important empirical question to be further explored (Kaag *et al.*, 2011). An understanding of the factors that lead to protests being scaled up to national and international levels and the effects this has on accountability is also a relevant question for further exploration.

Multi-stakeholder meetings and events

Whilst not analysed in the literature on LSLAs, public dialogue and national debates have arisen in most countries where the issue of LSLAs has appeared in the media or as an issue of public concern. The results and impacts of workshops and meetings are highly varied and cannot be fully assessed in this study. If properly run, these

58. For example see the Declaration issued by the 2010 Kolongotomo Farmers Forum on Land Grabs in Mali available at: <http://pubs.iied.org/pdfs/G03055.pdf>.

meetings can generate clear recommendations from a range of stakeholders and establish workable action plans. In Liberia, a national level meeting generated insights on a number of key accountability areas. The first being a discussion of participation in concession agreement procedures, particularly in relation to social differentiation, gender mainstreaming and indigenous rights, but also a discussion of the use of social development funds (Walker *et al.*, 2012). The meeting report illustrates that reaching consensus on broad policy principles may not be as challenging as implementing them. For example, the report concluded that a gap between 'early warning' and 'early response' must be addressed through 'a stronger network of early warning and early response mechanisms to identify threats and triggers of conflict' (*ibid.*, 2012:18). This is no easy task in a rapidly changing context. Beyond an analysis of direct outputs, follow-up research would be required to assess outcomes of such dialogue processes.

Violent protest

Sometimes protest turns violent or manifests itself through violent acts. These actions are outside the law but classified by theorists as an accountability mechanism – albeit one that may be neither legal nor legitimate (Agrawal and Ribot, 2012). Violence was present in several of the cases documented, and cannot therefore be ignored as a manifestation of local opposition to LSLAs. In all relevant cases violence was not the first response, and it appears particularly likely to ignite when the acquisition of land takes place in contexts of pre-existing tensions between groups, and marginalisation of certain groups (e.g. indigenous groups in Ethiopia-1,⁵⁹ and farmers-herder tensions in Ghana-1⁶⁰), or when citizens felt their previous demands were ignored or unmet (Senegal-1⁶¹ and -2,⁶² Sierra Leone-1⁶³). In most cases (Mali-2,⁶⁴ Ghana-1,⁶⁵ Sierra Leone-1⁶⁶), violence emerged at the margins of protest, and was not directly targeted at the investor, but rather takes place in the context of confrontations with police forces, which may result in arrests and the loss of lives. Such extreme situations are often drawn upon by authorities to push forward a return to the status quo, thus undermining the legitimacy of the wider protest.

One limitation of pursuing accountability through violence is that there is less space for demands to be clearly articulated by those conducting it. Even in the case of violence targeted at the investor, it may express frustration towards the perceived inadequacy of government authorities, rather than investors. However, who and what is the target of violence, whether state or investor infrastructure and persons, is significant and may help understand, albeit implicitly, what matters to citizens engaging in violence.

59. Lavers (2012); Human Rights Watch (2012).

60. Wisborg (2012).

61. Pambazuka (2011).

62. Thiam (2012).

63. Oakland Institute (2012).

64. Oakland Institute (2011).

65. Wisborg (2012).

66. Reuters (2012).

Media and communications

The media can be instrumental in communicating local voices and conflicting perspectives and freedom of the press is a well-recognised accountability mechanism. Initial concerns about LSLAs arose largely out of media reports documenting government and investor announcements of large land deals (e.g. Madagascar-1⁶⁷). Sustained media reporting about LSLAs has played an important role in increasing public awareness and opening up opportunities for accountability strategies. Authors also illustrate how media and online communications have fuelled further sensationalist reporting which can distance fact from reality in cases and politicise an issue at the expense of high quality coverage based on in-depth debate and rigorous analysis (*ibid.*; Kaag *et al.*, 2011). The sources of data and the motives for government or investor announcements are sometimes dubious, with investors seeking to show they have won important contracts, and governments communicating that they are 'open for business'. Media reports can equally undermine the perceived legitimacy of local protests. In the case of Mali-2, for example, it has been reported that 'One media report alleged that the protest was instigated by "mal-intentioned" youth and a Samana Dugu development association whose members are not residents of the village but living in Bamako' (Oakland Institute, 2011:30). Media sources also reported that protesters had violated investor property, which was contested by the local council of elders (*ibid.*). This research could not establish the accuracy of claims and counter-claims. At the extreme, media reporting can expose local citizens to political backlash or repression if perceived to have spoken with journalists as suggested in a case documented by Chachage (2010). Most companies, governments and large organisations have powerful media and communications capacities, including strategic and established channels through which to communicate their messages and to influence media reporting. But some international NGOs also have effective communications departments. Also, many NGOs and farmer associations have websites and listserves through which stories (e.g. audio-visual, press releases) are communicated and these have been important sources of data and transparency, for example in relation to investment contracts (Cotula, 2011). The role of the media in communicating local livelihood and political realities of LSLAs remains an under-researched area. Freedom of the press is widely recognised as important but the extent to which media reporting has influenced outcomes has not been systematically traced.

Legal recourse

Among the cases reviewed by this report, lawsuits are known to have been brought by affected citizens in five cases (Mali-2,⁶⁸ Senegal-1,⁶⁹ Uganda-1,⁷⁰ Zambia-1,⁷¹ Cameroon-1⁷²). In all cases, disputes were brought before national courts. Court

67. Teyssier *et al.* (2010).

68. Alimenterre (2012).

69. Koopman (2012).

70. Grainger and Geary (2011).

71. German *et al.* (2011).

72. Nguiffo and Schwartz (2012).

Box 5. Local-to-global efforts in a court case in Mali

In February 2012, three villages affected by two different agricultural investments in Mali's Office du Niger area filed a lawsuit with the Tribunal of Markala. The two deals relate to a prominent national investor, and to a joint venture between the Malian government and a foreign company. The latter company has since withdrawn from the venture. The national federation of producer organisations CNOP supports the lawsuit with technical advice and facilitation of community mobilisation, in collaboration with a national law firm and with transnational movement Via Campesina, highlighting the local-to-global relations involved in these legal recourse strategies. CNOP officials have no illusions about the likelihood that the lawsuit will succeed, but see this process as an important part of a wider social mobilisation and collective action strategy. In interviews with the press, the CNOP leadership indicated their intention to pursue the case before regional institutions should national recourse fail to deliver justice.

Source: interview with a CNOP official, August 2012.

cases have resulted in the suspension of projects (Cameroon-1⁷³) or in marginal improvements for local populations where the court ruled in favour of the investor (Zambia-1⁷⁴). In Cameroon-1, a local NGO took a company to court filing for a moratorium on operations. The court placed a restraining order on the project with a daily penalty for violating the terms, following which a company representative was reportedly arrested for breaching the order (Nguiffo and Schwartz, 2012). The outcomes of some cases have not been documented or are still in process (Mali-2⁷⁵). An important area of enquiry is the factors influencing or discouraging citizens from engaging legal action. In Ghana, researchers observed that legal recourse was not pursued by citizens due to deference to traditional authority, aspirations of project benefits, and lack of capacity amongst households (German *et al.*, 2011).

Whether going to court is worth the marginal gains is an important question to ask. In Zambia-1, the company acquired an old state farm which had only used up to 34% of the total area. This acquisition rekindled an old conflict and a new conflict arose from the eviction of farmers who had encroached on the disused land. The court in both cases ruled in favour of the investor:

*In the conflict that was rekindled, affected households that had moved back into the area were given transport, food and tents to support the relocation in an extra-legal settlement; in the other, settled in the Supreme Court following a repeal of an earlier ruling by the company, the only ruling in the community's favour was reportedly a grace period to allow crops to be harvested prior to relocation. (German *et al.*, 2011:32)*

In addition, going to court carries certain risks for those involved, especially in contexts of limited political freedoms, although it is noteworthy that such risks may not only be carried by complainants but also judiciary officials who may be the victims of political censorship.

73. Nguiffo and Schwartz (2012).

74. German *et al.* (2011).

75. Alimenterre (2012).

Support from high-profile actors is one factor that may empower citizens to engage with formal channels to seek legal redress, as suggested by the case of Mali-2 (see Box 5). However, this support does not in itself explain citizens' pursuit of lawsuits, and comparing the outcomes of lawsuits in contexts where support is and is not present may reveal much about factors influencing success of legal recourse as an accountability mechanism in LSLA contexts. NGOs may also provide direction as to when it is strategic to use litigation in the context of a wider set of similar grievances and specific advocacy objectives, but also when it helps to get government officials on oath in order to reveal government positions which may be important for related advocacy work.⁷⁶

International standards and grievance mechanisms

As discussed in Chapter 3, an increasing number of international standards are becoming established to improve investment practices along sustainable development principles. In two cases (Liberia-1⁷⁷ and Cameroon-1⁷⁸), international organisations have played a role in monitoring company compliance with the standards of the RSPO in response to local concerns. RSPO has a grievance mechanism to which complaints can be submitted. In Liberia-1, local communities filed a complaint to the RSPO (Forest Peoples Programme (FPP), 2012). In response, the company reportedly agreed to halt operations and enter dialogue with local communities (*ibid.*, 2012). This was mediated by national and international NGOs, but evidence suggests that communication subsequently broke down (*ibid.*). The longer-term effect of using the RSPO grievance mechanism is as yet unclear. In Cameroon-1, a group of national and international organisations filed a complaint to the RSPO grievance mechanism (Kessler, 2012). After this, the company was reported to have withdrawn its application to RSPO because the investigation was taking too long (Reuters, 2012). Furthermore, company representatives have been quoted as saying that, as most of the oil palm is to be sold within Africa, RSPO certification is not as necessary as it is not of concern to African buyers (Kessler, 2012). These experiences highlight the opportunities for greater accountability offered by certification schemes like the RSPO, but also the limitations of schemes that, ultimately, draw their strength from company commitment and market demand for certified products.

Education and awareness-raising

Often referred to as capacity building, educating farmers, pastoralists and other rural citizens on their land rights is a common response and role of CSOs and NGOs – and may provide a starting point for bottom-up reactions to land deals and collective citizen action. This may put farmers and local leaders in a stronger position to dialogue with and inform other actors. This may also involve sensitising

76. Representative of Zambia Environmental Law Association (pers. comm.)

77. FPP (2012).

78. Kessler (2012); Reuters (2012).

local authorities and religious and customary leaders, and creating fora for citizens and local leaders to debate their legal obligations and responsibilities. In Senegal-1, the local *collectif*, in implementing its mandate 'to sensitise the administrative authorities on the danger of [the company's] project and to work to bring peace to this quiet town', conducted consultation, meetings and outreach with village heads, diaspora, and religious and traditional authorities (Pambazuka, 2011; our translation). But discussing local debates on LSLAs in Senegal, Kaag *et al.* (2011:25) suggest that trainings to strengthen the capacity of farmer organisations to defend the interests of small-scale producers risk being held amongst friends and without 'real societal reach', thereby not leading to rigorous and impactful national debate. Whilst these approaches are not explored significantly in the LSLA literature, the nature of the organisations delivering support, and the methods and approaches used are likely to be significant factors in the resulting levels of awareness, capacity development and 'legal empowerment' (see below).

4.3 Outcomes: are citizens getting what they want?

The outcomes of citizen action can be tangible and intangible, and successes can be seen at different levels (Gaventa, 2008). So whilst accountability strategies may result in direct and tangible change (e.g. revised terms of the deal or cancellation), they may also establish 'new patterns of decision-making' at the local level or a greater sense of citizenship and capability to claim rights (*ibid.*, 3), all contributing to greater downward accountability. However, linking action to outcomes is challenging and not always realistic in complex and dynamic settings, particularly in the early days of citizen action to the current wave of deals. Furthermore, the linkages between citizen action and the cancellation of deals are often unclear. Many deals reported in the media over the past few years have collapsed due to changed world economic circumstances, financing difficulties and greater-than-expected challenges on the ground. The cancellation of a land deal can be as non-transparent as the signing of one. What we attempt here is to relate outcomes to demands in order to highlight convergences or discrepancies between the two, and to infer some conclusions about the effectiveness of accountability mechanisms.

It is important to note that this study examines pathways to accountability based on documented cases of local to global responses. Where no citizen action has been documented, this does not necessarily indicate that citizens are content with the processes of land investments – citizens may lack the means and platforms to communicate their grievances. The factors underlying lack of citizen action in the context of LSLAs need to be investigated further. In Ghana-1, some affected groups with weak land tenure (e.g. in-migrants) are considered locally, including by themselves, as outsiders and therefore are not likely to seek redress for perceived injustice. Lack of opportunities to seek justice need to be analysed within historical and social contexts of systematic social and political marginalisation.

Renegotiation of terms

In three cases (Ghana-1,⁷⁹ Ethiopia-1,⁸⁰ Tanzania-2⁸¹) there were indications that a renegotiation of terms with investors took place, but precise outcomes were not always documented. Nor is there documentation of levels of satisfaction of residents with the new terms, either because the research did not include this question or because renegotiation was still underway at the time of research. However, in all three cases authors suggested that the renegotiation was a positive step but fell short of meeting all citizen demands, and as such was at best only a partial success.

In terms of pathways to accountability, each case offers a valuable and specific insight with regards to the linkages between actors, strategy and outcome. In Ghana-1, for example, the decision to register landowners and improve the compensation scheme came from the investor, rather than local authorities, in the interests of 'operational peace' rather than any legal obligation under their lease agreement (Wisborg, 2012:13). Wisborg sees the response from the company as directly in response to local protests (*ibid.*). The company worked increasingly with the citizens' association as well as the authorities. Whilst NGOs saw their role as instrumental in the process leading up to the renegotiation, this support appears to have been seen with more scepticism by the company who recognised NGOs less as legitimate 'stakeholders' than the local affected peoples association (*ibid.*). The lack of involvement of the traditional council in seeking a resolution to the conflict, which also reportedly led to the company playing a more responsive role, was considered by an NGO to be in part due to fear of the paramount chief, suggesting that local authorities may be more accountable upwardly than to citizens (*ibid.*). This situation is significant and points to a research gap in the way existing democratic or traditional frameworks of citizen representation offer adequate platforms for public participation in the area of land governance.

Project cancellation

The cancellation of the deal was documented in at least three cases (Madagascar-1⁸² and 2,⁸³ Mozambique-1⁸⁴). This may be a direct result of the heightened global concern, and the engagement of activist networks that may have inspired governments some caution with regards to their promotion of land investment. However, the cancellation of projects may not be a response of governments to pressure exercised by citizen action. In Madagascar, for example, where two of the most publicised social movements against LSLAs took place, researchers have suggested that a slowing down of land investment rates may also be explained by unfavourable global economic contexts (see Box 6). In Tanzania-1 and

79. Wisborg (2012).

80. Bloomberg News (2012).

81. Chachage (2010).

82. Teyssier *et al.* (2010).

83. Allaverdian (2010).

84. Borras *et al.* (2011).

Box 6. Why are land investment projects stalling in Madagascar?

'Of more than 50 projects announced to date, 30% have stopped and only 25% are ongoing. (...) There are many reasons for projects being abandoned. The first is associated with the strong social and political opposition provoked by [Madagascar-1]. Demonstrations against this project (...) led to its cancellation (Teyssier et al., 2010). Confronted by this mobilization and by the position of the new government, some investors and their financiers judged the country's political and social climate to be unsuitable for investment and cancelled their projects. Their doubts were particularly linked to the possibility of accessing land and securing their investment. Other investors re-examined their projects because of financing problems linked to the global financial crisis or to uncertainty regarding the project's economic viability in a context of strong fluctuations in world prices (food commodities, petrol).'

Source: extract from Ratsialonana *et al.* (2011: 8).

Mozambique-1, the cancellation of projects also appear to be due to changes in economic circumstances (Chachage, 2010; Borrás *et al.*, 2011). It cannot be assumed that project cancellation in these cases is always reflective of citizens' aspirations.

Wider shifts in governance

Beyond assessing accountability strategies in relation to individual deals, some strategies have a wider reach that is not easy to capture within the scope of this report. Indeed, the case study approach makes it difficult to chart the cumulative impacts of responses to numerous cases in any one country, and even more so internationally. For instance, has a response to one individual case led to better practice in other deals? FPP (2012) suggest that in the case of Liberia-1 citizen actions taken against the company have resulted in some shifts in the governance of land and concessions (see Box 7).

Box 7. Targeted action in Liberia results in a governance shift

'The Liberian Land Commission has now replaced the Ministry of Internal Affairs as the part of government leading on the issues. The Land Commission has not only promised to ensure that communities who have lost their land in Grand Cape Mount have their land demarcated and their land issues resolved, but has also announced a major reorientation in how it addresses oil palm development projects in Liberia. While future concessions will be frozen, the Commission will seek to regularise 'tribal' lands in the area of the concession handed to [the company] before the company expands further and to resolve the land issues in favour of the communities in the disputed area of Grand Cape Mount. If this course of action is pursued then the communities and their civil society partners' complaints will indeed have been heard and acted on. Both the company and the communities have asked FPP to help facilitate further discussion between them if this is needed.'

Source: extract from FPP (2012:33).

Photo: © David Snyder, Courtesy of Photoshare



A woman prepares the soil near Cubal, Angola for planting through a seed multiplication project run by an international NGO. Through the project, community members join together to work on a communal piece of land and share the profits they generate through their collective efforts.

Despite the major weaknesses in quantitative datasets concerning the scale of the land rush (Cotula and Polack, 2012), there are indications that the pace of the deals, particularly of the largest size, is now declining. This may be due to the failure of many investment projects, which has made both governments and investors more cautious. But it may also reflect the impact of local-to-global citizen action that has challenged the legitimacy or desirability of LSLAs. The extent to which this is the case warrants further research.

5. Conclusion

5.1 Under what conditions can citizens achieve justice and equitable outcomes in relation to land acquisitions?

We have sought to answer this question through the lens of accountability. Studies on LSLAs have demonstrated that while some investments show some promising contributions to rural development, many reveal major accountability gaps in the processes of land allocation by state and customary authorities. Legal analysis presented in Chapter 3 sets out some of the limitations of formal legal frameworks in protecting local landholders and providing opportunities for public accountability. Chapter 4 reviewed citizen action in response to LSLAs. Some strategies have led to better outcomes for local people; some have led to very little; some to a worsening of relations between different groups or between citizens and authorities.

The fact that all the case studies selected for this report involved some degree of citizen action should not be interpreted as suggesting that citizens always manage to mobilise. A lack of effective mobilisation may be rooted in low levels of local organisation, weak local knowledge of rights, lack of understanding of relevant authority, or weak capacity to formulate demands. But the review indicates that, where mobilisation occurs, efforts to hold decision-makers to account have tended to target national or local governments or customary authorities – the entities responsible for land allocations – more than the companies that acquired the land. This contrasts with the emphasis in international debates on holding ‘land grabbers’ to account. Without neglecting the importance of pathways for the accountability of the full range of players involved (from land acquirers through to international campaigners themselves), the relationship between citizen and public authority is a critical one to explore.

Legal empowerment as a pathway to accountability

Many commentators on the global land rush have called for more effective mechanisms to ensure the downward accountability of public authorities to their citizens. For example, Hilhorst *et al.* (2011) argue as follows:

*It is therefore important that local authorities, formal and informal, become more accountable, track developments and seek to regulate the arrival of agro-investors into their communities. They can prevent much damage if they accept only those that will “really” contribute to local development and reject others, develop clear contracts with conditions on sustainable resource use – which are monitored and enforced –, and protect key common pool resources and cattletracks from acquisition. The starting point is the awareness of farmer organisations, local governments and customary authorities of what is at stake and how they can act. (Hilhorst *et al.*, 2011:25)*

But while there is broad consensus on the need for greater accountability, the conditions under which accountability mechanisms do lead to justice and equity are less well understood. The literature reviewed for this study and the analysis conducted point to a set of accountability mechanisms that may enable citizens to obtain justice in relation to LSLAs. Returning to our initial analytical framework, the notions of 'accountability as rights' and 'accountability as power' provide an approximate parallel with formal and informal mechanisms through which citizens exercise their rights and articulate their views in the face of LSLAs. Strengthening both types of mechanisms can be conceptualised as a process of legal empowerment, whereby citizens acquire stronger rights to their resources and greater say in decision-making processes affecting them ('accountability as rights'), and also become better equipped to make the most of opportunities for public accountability through collective action and effective use of political leverage ('accountability as power'). This notion of legal empowerment implies a combination of law reforms to address gaps and limitations in regulatory frameworks and weaknesses in democratic processes, and of collective action to give real leverage to legal rights (Cotula, 2007; Mathieu, 2008). In this context, strictly defined legal strategies like court cases are only one element of a wider strategy of empowerment that combines harnessing the law with political processes.

Legal empowerment therefore relies on a range of institutions and institutional strengths and capacities. Where 'accountability as rights' lies in effective legal systems and frameworks and the structures of democratic institutions, 'accountability as power' lies in skills and capacities to claim power and rights, through skills and passion for engaging in policy processes, conducting legal, policy and institutional analysis, developing alternate visions of development and modernisation, designing legal reforms, piloting programmes, developing new systems of checks and balances, strategic non-violent direct action and advocacy (German *et al.*, 2011). A holistic concept of legal empowerment placed at the intersection of these pathways is important, because it is clear that, if one mechanism is in place but the others are weak, or if a coordinating actor is not perceived to be legitimate, then justice will not necessarily be obtained.

Legal empowerment in practice

There are no magic bullets in defining possible ways forward for legal empowerment. Consultation processes that aim to generate community buy-in and reduce the likelihood of conflict, whether seeking FPIC or not, are fraught with difficulties. Time and other pressures tend to affect the quality and legitimacy of the consultation. One review of consultation processes concluded that 'most documented cases [of community consultations] with successful outcomes occurred only following resistance and protest to early injustices' (German *et al.*, 2011:24). Yet increasing local control over the decision-making processes that shape agricultural investment is critical to ensure that those processes are perceived as legitimate. One response to weak transparency and consultative processes is that 'inclusive and deliberative

consultation processes' should be a standard feature of democratic governance in rural areas, not just for one-off projects (Kaag *et al.*, 2011). In other words, giving people a say should not wait until an investment project comes in – it should be part and parcel of rural development. Vehicles for doing this would include the participatory formulation of a shared vision for rural development, participatory land use planning and zoning, and public participation in law reforms. This approach would place citizens in a better position to articulate their vision when consultations about a specific investment proposal are initiated. But this approach is not without its challenges, in particular when it comes to representation. NGOs in Mali, for example, have worked hard to ensure the widest participation in the deliberation of national policies affecting agriculture, particularly the design and implementation of the Agricultural Orientation Act of 2006 (Goita and Coulibaly, 2012). Numerous approaches for empowering local groups and strengthening pathways to accountability in the land rush have been put forward – from community land delimitation through to increasing devolution in land management (e.g. Cotula *et al.*, 2009; Knight *et al.*, 2012). In practice, the context outlined in Chapters 3 and 4 highlights the challenges that continue to undermine public accountability. That context calls for a re-think of national and international legal frameworks, and for sustained support to locally rooted citizen action. There is an important role here for governments to take the lead on the former, and for NGOs, transnational networks and development agencies to provide support for the latter.

Context, including political space, will critically affect choices in this respect. The most effective vehicles for public accountability, and the forms of legal empowerment that are most appropriate, will depend on the democratic effectiveness of state and informal institutions. All countries lie in a space of complex and dynamic transitions in citizen-state relations affecting public accountability. These considerations will shape the space for and effectiveness of diverse accountability strategies. These more 'systemic' considerations also highlight the limitations of response strategies focused on individual land deals, as opposed to action to promote a wider shift towards a context where justice and equity is more obtainable (e.g. due to stronger networks, progressive legal reforms, etc.).

5.2 Defining a research agenda

Empirical evidence on LSLAs is growing but still limited.⁸⁵ Evidence on accountability in LSLAs is even less established. This study has sought to draw out key themes from the literature that discusses accountability, covering two main areas: the ways in which legal frameworks shape pathways to accountability; and citizens' accountability strategies. This evidence base on these two dimensions is growing, but still presents limitations, especially with regard to the second component.

85. On the challenges affecting evidence about scale and geography, see Cotula (2012b) and Cotula and Polack (2012).

Firstly, the literature has tended to focus on accountability strategies vis-à-vis investments involving international capital, particularly very large deals that have made national and international headlines. Greater availability of information for these investments is one reason why they have attracted more attention among researchers – as explicitly recognised by some published research (e.g. Center for Human Rights and Global Justice, 2010). The smaller-scale but widespread acquisition of land by national companies or elites has often prompted less attention from media, NGOs and the courts, and pathways to accountability in these cases have been less documented (for exceptions, see e.g. Hilhorst *et al.*, 2011). Well-documented headline cases are not necessarily reflective of country-level trends, in terms of local impacts but also of local response strategies. Accountability dynamics may prove different in the less publicised deals. For example, it is possible that many smaller deals led by local elites are even more lacking in transparency due to the lower levels of public scrutiny. Secondly, because the current wave of LSLAs is a relatively recent phenomenon, evidence is dominated by a vast body of grey literature, including NGO and media reports. Many studies provide little detail on the research methods employed. Only two of the core sources underpinning the case studies examined in this report provided details of their sample size for field level data collection (see Wisborg, 2012; Oxfam, 2011), and only seven stated that interviews with a range of informants were conducted. Some reports give indication of substantial fieldwork but provide little detail. Some research reports have been criticised by companies and governments for misreporting or ideological positioning. Peer reviewed articles on accountability strategies are starting to emerge, which may help strengthen the evidence base considerably.

Another important question is whether and how this growing body of evidence is translating into real change in policy and practice. This question is as yet hard to assess. Few published papers comment on how the research process they engaged in has influenced research participants. An exception is a case where farmer organisations report that being involved in participatory research into land acquisitions by domestic investors in West Africa had made them realise that land acquisition was increasing, and that it is critical for farmer organisations to discuss this issue internally and articulate their position externally (Hilhorst *et al.*, 2011). There is a multiplicity of pathways through which research might result in policy change – from advocacy based on new evidence, to state-commissioned research that informs a legislative reform process. But there are no studies that explicitly examine the responsiveness of states to published research, and the extent to which research has led or contributed to change. It is fair to say that national and international debates on LSLAs have been informed by research, though how these debates are in turn translating into policy change is yet to be tracked or established.

While specific research needs will inevitably vary from country to country, and while the definition of locally rooted research agendas would require critical input from policy makers and from shapers at the local level, four broad areas for further research emerge from this report's analysis.

The first area relates to more holistic assessments of land governance and changing land relations across Africa. This means paying equal attention to the land acquisitions by urban or rural elites, which may have been happening for longer on a greater scale than international deals. The implications for changes in power relations concerning land and resource access as well as livelihood, food security and environmental sustainability are not well understood. As discussed, local and national land acquisitions are likely to raise different legitimacy and accountability issues than those at stake in the more publicised international deals. Researching changes in land use and control in relation to multiple drivers of change, including smaller acquisitions or investments by domestic actors, will help place the conditions under which large-scale land acquisitions happen, and the implications for public accountability, into a more nuanced perspective on developing strategies to strengthen accountability of authorities, private actors and NGOs to rural citizens.

The second area for further research relates to developing a deeper appreciation of actors and institutions and their roles and responsibilities in accountability strategies. This includes developing a better understanding of what motivates, and what enables, different groups to engage in citizen action and hold to account public authorities, but also national and international NGOs, development agencies and the private sector. Also, who do local landholders see as accountable, and what means do they have to demand answerability and impose sanctions? Do the actions of some impact the capacity of others to assert citizenship and seek justice in the case of a perceived wrong-doing? In researching actors and agency, it is critical not to treat romanticised 'communities' as homogenous, and to consider social differentiation (e.g. gender, age, ethnicity, socio-economic status) and how the interplay between different actors – from local demands to transnational networks – shapes agendas and pathways in accountability processes. Gender is a particularly important aspect that has largely been ignored in the literature on accountability in LSLAs, and investigating the different perceptions, aspirations and actions of men and women in response strategies can provide important insights for civil society support initiatives.

Now that citizen responses are becoming established at different scales, better understanding the role of transnational activism is both more possible and necessary. Research may ask how transnational networks are mobilised and how narratives between local and global operators differ, and explore mechanisms to ensure the accountability of those who act on behalf of local interests.

The third area for further research involves developing a deeper understanding of the accountability mechanisms to make legal empowerment work in practice. This is an arena where action-research methods – testing new approaches and rigorously learning lessons from the process – seem particularly promising. Relevant mechanisms to be explored would be wide-ranging, but might include investigating what rigorous community consultation and FPIC processes might look like in practice, or supporting pilot processes for the collective registration and delimitation of local landholdings. Countries where community land delimitation has already been

implemented, such as Mozambique, provide useful contexts to study the political, financial, legal and capacity bottlenecks that have been slowing progress with implementation. While many have called for greater transparency in decision-making and individual negotiations, a critical analysis of the conditions under which transparency can indeed result in better outcomes is needed. This may shed light as to why, for example, the government of Liberia is legally obliged to publish its contracts as a way to improve transparency, but there remain widespread reports of abuses and adverse local outcomes.

The prominent role of the media in raising awareness and disseminating information about the land rush calls for rigorous analysis of the enablers and impacts of media engagement as a strategy for change.

This report has documented several known court cases challenging large land deals, but there is as yet very little evidence on the outcomes of these cases and hence on the effectiveness of formal litigation as an accountability mechanism. It is also widely recognised that legal support organisations play a critical role in making litigation possible. But a better understanding of the extent to which, and the ways in which, local people supported by these efforts can genuinely retain ownership and leadership in the action is critical for shaping future access to justice initiatives.

Finally, the fourth area for further research relates to mapping the channels through which advances in research are translating into change in policy and practice. This may involve applying established research-to-policy frameworks already used in some research and development programmes. These include tools which systematically assess context, actors and institutions from the perspectives of their politics and interests, their narratives, and their claims to legitimacy via the evidence base, as well as tools that consider how engaging different actors in research and analysis can effect change.⁸⁶

86. See for example RAPID framework developed by the Overseas Development Institute (<http://www.odi.org.uk/work/programmes/rapid/default.asp>); the discussion in Carden (2009) and the Outcome Mapping tools (<http://www.outcomemapping.ca/>) developed by IDRC; the power analysis and spaces for change methods developed by Gaventa (2006); policy processes framework developed by Keeley and Scoones (2003); and, for lessons generated from using a 'policy processes' analytical framework to link local-level Participatory Action Research initiatives to national policy, see Naess *et al.* (2011).

References

- Ackerman, J. 2003. Co-governance for accountability: Beyond 'Exit' and 'Voice'. *World Development* 32(3) 447-463.
- Agrawal, A. and Ribot, J. 2012. *Assessing the effectiveness of democratic accountability mechanisms in local governance*. USAID, Washington.
- Alden Wily, L. 2012. Looking Back to See Forward: The Legal Niceties of Land Theft in Land Rushes. *Journal of Peasant Studies* 39(2) 751-776.
- Alden Wily, L. 2011. *The Tragedy of Public Lands: The Fate of the Commons under Global Commercial Pressure*. International Land Coalition, Rome. Available at: www.landcoalition.org/publications/accelerate-legal-recognition-commons-group-owned-private-property-limit-involuntary-land.
- Alden Wily, L. 2003. *Governance and Land Relations: A Review of Decentralisation of Land Administration and Management in Africa*. IIED, London.
- Alimenterre. 20 May 2012. *Situation politique et accaparement des terres au Mali!* Interview on Alimenterre, a Platform and Resources site run by the Comité Français pour la Solidarité Internationale Available at: www.alimenterre.org/en/ressource/the-political-situation-and-land-grabbing-in-mali.
- Allaverdian, C. 2010. *Agricultures familiales et sociétés civiles face aux investissements dans les terres dans les pays du Sud*. Coordination, SUD Solidarité Urgence Développement, Paris.
- Amanor, K. 2011. Global Land grabs, Agribusiness and the Commercial Smallholder: A West African perspective. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.
- Anseeuw, W., Alden Wily, L., Cotula, L. and Taylor, M. 2012. *Land Rights and the Rush for Land: Findings of the Global Commercial Pressures on Land Research Project*. International Land Coalition, Rome. Available at: www.landcoalition.org/cpl/CPL-synthesis-report.
- Behrman, J., Meinzen-Dick, R. and Quisumbing, A. 2011. *The Gender Implications of Large-Scale Land Deals*. IFPRI Discussion Paper 01056. International Food Policy Research Institute.
- Benequista, N. 2011. *Blurring the Boundaries: Citizen Action Across States and Societies*. Development Research Centre on Citizenship, Participation and Accountability, Brighton.
- Birara, A. 16 May 2012. *Open Letter to Ambassador Nirupama Rao, Ambassador of India to the United States*. The Oakland Institute. Available at: <http://oaklandinstitute.org/open-letter-ambassador-nirupama-rao-ambassador-india-united-states>.
- Bloomberg News. 30 May 2012. Saudi Star offers jobs to overcome criticism of Ethiopia project by W. Davison. Available at: www.bloomberg.com/news/2012-05-30/saudi-star-offers-jobs-to-overcome-criticism-of-ethiopia-project.html.

- Borras, J., Fig, D. and Monsalve Suarez, S. 2011. The politics of agrofuels and megaland and water deals: insights from the ProCana case, Mozambique. *Review of African Political Economy* 38(128) 215-234.
- Borras, J. and Franco, J. 2010a. From Threat to Opportunity? Problems with the Idea of a "Code of Conduct" for Land-Grabbing. *Yale Human Rights and Development Law Journal* 13(1) 507-523.
- Borras, J. and Franco, J. 2010b. *Towards a Broader View of the Politics of Global Land Grab: Rethinking Land Issues, Reframing Resistance*. ICAS Working Paper Series No. 001. International Institute of Social Studies (ISS), The Hague.
- Bovens, M. 2007. Analysing and assessing accountability: A conceptual framework. *European Law Journal* 13(4) 447-468.
- Burnod, P., Gingembre, M., Andrianirina, R. and Ratovoarinony, R. 2011. From International Land Deals to Local Informal Agreements: Regulations of and Local Reactions to Agricultural Investments in Madagascar. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.
- Carden, F. 2009. Knowledge to Policy: Making the Most of Development Research. IDRC/Sage. Available at: <http://idl-bnc.idrc.ca/dspace/bitstream/10625/37706/1/127931.pdf>.
- Center for Human Rights and Global Justice. 2010. *Foreign Land Deals and Human Rights: Case Studies on Agricultural and Biofuel Investment*. NYU School of Law, New York.
- Chachage, C. 2010. *Land acquisition and accumulation in Tanzania. The case of Morogoro, Iringa and Pwani Regions*. PELUM Tanzania, Dar es Salaam.
- Chhatre, A. 2007. *Accountability in decentralization and the democratic context: Theory and evidence from India*. World Resource Institute, Working Paper 23. Washington D.C.
- CICODEV. 2011. *Accaparements de terre en Afrique de l'Ouest. Exporter ou nourrir les populations. Impact sur les consommateurs ruraux*. CICODEV, Dakar.
- Cornwall, A. and Gaventa, J. 2001. Bridging the gap: citizenship, participation and accountability. *PLA Notes* 40 32-35. IIED, London.
- Cotula, L. 2007. *Legal empowerment for local resource control: Securing local resource rights within foreign investment projects in Africa*. IIED, London. Available at: <http://pubs.iied.org/12542IIED.html>.
- Cotula, L. 2010. Investment contracts and sustainable development: How to make contracts for fairer and more sustainable natural resource investments. *Natural Resource Issues* No. 20. IIED, London.
- Cotula, L. 2011. *Land deals in Africa: What is in the contracts?* IIED, London. Available at: <http://pubs.iied.org/12568IIED.html>.
- Cotula, L. 2012a. *Human Rights, Natural Resource and Investment Law in a Globalised World: Shades of Grey in the Shadow of the Law*. Routledge, London and New York.
- Cotula, L. 2012b. The international political economy of the global land rush: A critical appraisal of trends, scale, geography and drivers. *Journal of Peasant Studies* 39:3-4, 649-680. Available at: www.tandfonline.com/doi/pdf/10.1080/03066150.2012.674940.

- Cotula, L. and Polack, E. 2012. *The global land rush: what the evidence reveals about scale and geography*. IIED Briefing. IIED, London. Available at: <http://pubs.iied.org/17124IIED.html>.
- Cotula, L., Vermeulen, S., Leonard, R. and Keeley, J. 2009. *Land grab or development opportunity? Agricultural investment and international land deals in Africa*. IIED/FAO/IFAD, London/Rome. Available at: <http://pubs.iied.org/12561IIED.html>.
- Daley, E. and Scott, S. 2011. *Understanding Land Investment Deals in Africa: Tanzania Case Study Report*. Mokoro Ltd, Oxford.
- Daley, E. 2011. *Gendered impacts of commercial pressures on land*. International Land Coalition, Rome. Available at: www.landcoalition.org/sites/default/files/publication/902/MOKORO_Gender_web_11.03.11.pdf.
- Deininger, K. and Byerlee, D., with Lindsay, J., Norton, A., Selod, H. and Stickler, M. 2011. *Rising Global Interest in Farmland: Can it Yield Sustainable and Equitable Benefits?* World Bank, Washington D.C. Available at: http://econ.worldbank.org/external/default/main?pagePK=64165259&theSitePK=469382&piPK=64165421&menuPK=64166322&entityID=000334955_20110208033706.
- De Schutter, O. 2009. Report of the Special Rapporteur on the Right to Food – Addendum, 'Large-Scale Land Acquisitions and Leases: A Set of Minimum Principles and Measures to Address the Human Rights Challenge'. 28 December 2009. UN Doc. A/HRC//13/33/Add.2.
- Djiré, M. 2007. *Land registration in Mali – No land ownership for farmers? Observations from peri-urban Bamako*. Issue Paper no. 144. IIED, London.
- Djiré, M. and Keita, A. 2010. *Revue du cadre juridique et institutionnel de la gouvernance des ressources naturelles : une étude de cas sur la gestion des terres à l'office du Niger*. ANSA-Africa and IED-Afrique. Available at: www.iedafrique.org/IMG/pdf/Revue_pays_Malipdf.pdf.
- Dunn, A. and Gaventa, J. 2007. Building inclusive citizenship and democracies. In: Mahendra, S. (ed.). *Claiming Citizenship*. ID21 Focus. IDS, Brighton.
- EuropeAfrica. 20 June 2012. Arrêt définitif du projet SENETHANOL dans la communauté rurale de Fanaye. Available at: www.europafrica.info/fr/news/arret-definitif-du-projet-senethanol-dans-la-communaute-rurale-de-fanaye.
- L'Express de Madagascar. 27 July 2009. 'Affaires Daewoo, Varun et autres : Redoublons de vigilance !' by Collectif pour la Défense des Terres Malgaches – TANY. Available at: <http://farmlandgrab.org/7043>.
- Faye, I.M., Benkahla, A., Touré, O., Seck, S.M. and Ba, C.O. 2011. *Les acquisitions de terres à grande échelle au Sénégal : description d'un nouveau phénomène*. Initiative Prospective Agricole et Rurale (IPAR), Dakar.
- FIAN. 2011. 'Nyéléni, Mali: A global alliance against land grabbing', by Reisenberger, B. and Monsalve Suárez, S. 2nd December. Available at: www.fian.org/news/news/nyeleni-mali-a-global-alliance-against-land-grabbing/pdf.
- FIAN. 2010. *Land Grabbing in Kenya and Mozambique*. FIAN, Heidelberg. Available at: www.fian.org/resources/documents/others/land-grabbing-in-kenya-and-mozambique.
- FIAN and Centro de Estudios para el Cambio en el Campo Mexicano (Study Centre for Change in the Mexican Countryside) & FIAN International & Focus on

- the Global South & Friends of the Earth International & Global Campaign on Agrarian Reform & GRAIN & La Via Campesina & Land Research Action Network & Rede Social de Justiça e Direitos Humanos (Social Network for Justice and Human Rights) & World Alliance of Mobile Indigenous Peoples & World Forum of Fisher Peoples. 2011. *It's time to outlaw land grabbing, not to make it "responsible"*. Press communique, 17 April, 2011. <http://farmlandgrab.org/post/view/18457>.
- Financial Times. 2008. Land leased to secure crops for South Korea, by J. Blas, 18 November. Available at: www.ft.com/cms/s/0/98a81b9c-b59f-11dd-ab71-0000779fd18c.html.
- Fox, J. 2007. The uncertain relationship between transparency and accountability. *Development in Practice* 17(4) 663-671.
- FPP. 2012. Liberia: Agri-business expansion threatens forests and local communities' livelihoods. FPP E-Newsletter, April 2012. Available at: www.forestpeoples.org/enewsletters/fpp-e-newsletter-april-2012.
- Fraser, N. 2005. Transnationalizing the Public Sphere. Republicart. Available at: www.republicart.net/disc/publicum/fraser01_en.htm.
- Gadaa. 30 April 2012. *Ethiopia: Three-day campaign on human rights and land-grabbing a success*, by Ad Hoc Coordinating Committee, Oromo Communities in Europe. Available at: <http://farmlandgrab.org/post/view/20421>.
- Gadaa. 25 November 2011. Oromia-Ethiopia: Oromo Nationals March with OWS in Berlin to Protest Corporate Landgrabs in Oromia. Available at: <http://gadaa.com/oduu/11733/2011/11/25/oromo-nationals-march-with-ows-in-berlin-to-protest-corporate-landgrab-in-oromia/>.
- Gaventa, J. 2008. *Building Responsive States: Citizen Action and National Policy Change*. IDS InFocus Briefing. Issue 5. Available at: www.drc-citizenship.org/system/assets/1052734585/original/1052734585-gaventa.2008-building.pdf.
- Gaventa, J. 2006. *Finding the spaces for change: a power analysis*. IDS Bulletin 37(6): 23-33.
- German, L., Schoneveld, G. and Mwangi, E. 2011. *Contemporary processes of large scale land acquisition by investors. Case studies from sub-Saharan Africa*. CIFOR, Borgor Barat.
- Global Witness, Oakland Institute and International Land Coalition. 2012. *Dealing with Disclosure: Improving transparency in large scale land acquisitions, allocations and investments*. Global Witness.
- Goetz, A. and Jenkins, R. 2002. *Voice, Accountability and Human Development: The Emergence of a New Agenda*. Paper prepared for the Meeting of the UNDP HDR Advisory Panel, 5-7 November 2001. UNDP.
- Goita, M. and Coulibaly, M. 2012. *Listen, think and act: Radio broadcasting to promote farmers' participation in Mali's land policy*. A 'Legal tools for citizen empowerment' publication. IIED/IRPAD, London/Bamako. Available at: <http://pubs.iied.org/G03419.html>.
- Grainger, M. and Geary, K. 2011. *The New Forests Company and its Uganda plantations*. Oxfam International, London.

- Hall, D. 2011. Land Control, Land Grabs, and Southeast Asian Crop Booms. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.
- Havnevik, K., Haaland, H. and Abdallah, J. 2011. *Biofuel, land and environmental issues – the case of SEKAB's biofuel plans in Tanzania*. Nordic Africa Institute, the University of Agder, Norway and Sokoine and the University of Agricultural Sciences, Tanzania.
- Heegde, M., Hilhorst, T. and Porchet, N. 2011. *Mali: Food security and land governance factsheet*. The Royal Tropical Institute (KIT), The Netherlands.
- Hilhorst, T., Nelen, J. and Traoré, N. 2011. Agrarian change below the radar screen: Rising farmland acquisitions by domestic investors in West Africa – Results from a survey in Benin, Burkina Faso and Niger. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.
- Human Rights Watch. 2012. *“Waiting Here for Death”: Forced Displacement and “Villagization” in Ethiopia’s Gambella Region*. Available at: www.hrw.org/sites/default/files/reports/ethiopia0112webwcover_0.pdf.
- IDRC. 2011. Governance, Security and Justice Program Prospectus for 2011-2016. International Development Research Centre. www.idrc.ca/EN/Programs/Social_and_Economic_Policy/Documents/GSJ-Prospectus-abbreviated-version-ENG.pdf.
- Inter-réseaux Développement Rural. 2011. Farmers' Organizations and Land Pressure in West Africa. Inter-réseaux Développement rural Bulletin no.4. Available at: www.inter-reseaux.org/IMG/pdf/BVS_foncier_definitif_EN_final.pdf.
- Kaag, M., Gaye, Y. and Kruis, M. 2011. *Accountability in Land Governance: A Study into the Stakes in Senegal*. LOCATION LANDac.
- Kasanga, K. and Kotey, N.A. 2001. Land Management in Ghana: Building on Tradition and Modernity. IIED, London.
- Keeley, J. and Scoones, I. 2003. *Understanding environmental policy processes: cases from Africa*. Earthscan.
- Kessler, A. 7 September 2012. *Battle on in Cameroon*. 100Reporters. Available at: <http://100r.org/2012/09/battle-lines-drawn-on-cameroon-land-deal/>.
- Knight, R., Adoko, J., Siakor, A., Salamao, A., Auma, T., Kaba, A. and Tankar, I. 2012. Protecting Community Lands and Resources: Evidence from Liberia, Mozambique and Uganda. Namati and International Development Law Organization (IDLO).
- Koopman, J. 2012. Land grabs, government, peasant and civil society activism in the Senegal River Valley. *Review of African Political Economy*, 39:134 655-664. Available at: www.tandfonline.com/doi/full/10.1080/03056244.2012.738797.
- Lavers, T. 2012. Patterns of agrarian transformation in Ethiopia: State mediated commercialisation and the 'land grab'. *Journal of Peasant Studies* 39(3-4) 795-822.
- Mahendra, S. (ed.). 2007. *Claiming Citizenship*. ID21 Focus. IDS, Brighton.
- Makki, F. and Geisler, C. 2011. Development by Dispossession: Land Grabbing as New Enclosures in Contemporary Ethiopia. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.

- Maley, W. 2008. Building Legitimacy in Post-Taliban Afghanistan. In Rennie, R. *State Building, Security, and Social Change in Afghanistan – Reflection on a Survey of the Afghan People*. 11-26. The Asia Foundation, Kabul.
- Malen Land Owners Association. 2011. *Grievances of land owners in Malen Chiefdom*, PD The District Officer, p. 3 letter to the district officer, Malen Chiefdom, Pujehun District from the Malen Land Owners Association, October 2, 2011.
- Mathieu, P. 2008. Legal Empowerment in Practice to Secure the Land Rights of the Poor – A short concept note. In: Cotula, L. and Mathieu, P. *Legal empowerment in practice: Using Legal Tools To Secure Land Rights In Africa*. IIED, London. Available at: <http://pubs.iied.org/12552IIED.html>.
- Matsiko, 2012. 'Museveni angry over NGO report on land grabbing', The Independent (Kampala). 6 May 2012. Available at: www.independent.co.ug/cover-story/5726-museveni-angry-over-ngo-report-on-land-grabbing.
- Mendel, T. 2008. *Freedom of Information: A Comparative Legal Survey*. UNESCO. Available at: http://portal.unesco.org/ci/en/files/26159/12054862803/freedom_information_en.pdf/freedom_information_en.pdf.
- Ministry of Foreign Affairs, Ethiopia. 2012. *Oakland Institute campaigns to perpetuate poverty*. Available at: www.mfa.gov.et/weekHornAfrica/morewha.php?wi=260#260.
- Mittal, A. 19 March 2012. *An Open Letter to the Government of Ethiopia*. The Oakland Institute, Oakland. Available at: www.oaklandinstitute.org/open-letter-government-ethiopia.
- Mittal, A. and Furman, J. 2 May 2012. Focusing on land grabs in Africa. Deccan Herald (Bangalore). Available at: www.deccanherald.com/content/246527/focusing-land-grabs-africa.html.
- Mujenja, F. and Wonani, C. 2012. Long-term outcomes of agricultural investments: Lessons from Zambia. IIED, London.
- Mulondo, M. 20 July 2009. Uganda: Mubende Residents Petition Lands Minister Over Eviction, Harassment. By Moses Mulondo. Available at: <http://allafrica.com/stories/200907210016.html>.
- Mushinzimana, G. and Diallo, A. 2009. *Foreign Direct Investment (FDI) in Land in Mali*. GIZ, Eschborn.
- Naess, L.O., Polack, E., Chinsinga, B. 2011. Bridging Research and Policy Processes for Climate Change Adaptation in Political Economy of Climate Change. *IDS Bulletin* 42(3) 97-103. IDS, Brighton.
- Newell, P. 2001. Access to environmental justice? Litigation against TNCs in the South. *IDS Bulletin* 32(1) 83-93. IDS, Brighton.
- Newell, P. and Bellour, S. 2002. *Mapping accountability: Origins, contexts and implications for development*. IDS, Brighton.
- Newell, P. and Wheeler, J. (eds). 2006. *Rights, Resources and the Politics of Accountability*. Zed Books London.
- News Dire. 18 May. 2012. Obama Urged to Reassess Ethiopian Relations Over Land Evictions. Available at: <http://oaklandinstitute.org/obama-urged-reassess-ethiopian-relations-over-land-evictions-1>.

- Nguiffo, S., Kenfack, P.E. and Mballa, N. 2009. *L'Incidence des Lois Foncières Historiques et Modernes sur les Droits Fonciers des Communautés Locales et Autochtones du Cameroun*. Forest Peoples Programme, Moreton-in-Marsh. Available at: www.forestpeoples.org/documents/africa/land_rights_series_base.html.
- Nguiffo, S. and Schwartz, B. 2012. *Herakles' 13th labour? A Study of SGSOC's Land Concession in South-West Cameroon*. Centre pour l'Environnement et le Développement, RELUFA.
- Nhantumbo, I. and Salomão, A. 2010. *Biofuels, land access and rural livelihoods in Mozambique*. IIED, London. Available at: <http://pubs.iiied.org/12563IIED.html>.
- Nolte, K. 2012 *Large-scale agricultural investments under poor land governance systems: Actors and Institutions in the case of Zambia*. Paper prepared for the World Bank Land and Poverty Conference, Washington, April 23-26, 2012.
- Oakland Institute. 2012. Understanding Land Investment Deals In Africa. SOCFIN land investment in Sierra Leone. Land Deal Brief, Oakland Institute, Oakland. Available at: www.oaklandinstitute.org/sites/oaklandinstitute.org/files/OI_brief_socfin_agricultural_company.pdf.
- Oakland Institute. 2011. Understanding Land Investment Deals in Africa. Country Report: Mali. The Oakland Institute, Oakland. Available at: <http://media.oaklandinstitute.org/special-investigation-understanding-land-investment-deals-africa>.
- Oxfam. 2011. *Land and Power: The growing scandal surrounding the new wave of investments in land*. Oxfam, Oxford. Available from: www.oxfam.org/sites/www.oxfam.org/files/bp151-land-power-rights-acquisitions-220911-en.pdf.
- Palmer, R. 2011. Would Cecil Rhodes have signed a Code of Conduct? Reflections on Global Land Grabbing and Land Rights in Africa, Past and Present. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011.
- Pambazuka News. 2011. Sénégal : les populations se soulèvent contre l'accaparement des terres, by Le Collectif pour la défense des terres de Fanaye. Available at: www.pambazuka.org/fr/category/features/78295.
- Peluso, N. L. and Lund, C. 2011. New frontiers of land control: An introduction. *The Journal of Peasant Studies* 38(4) 667-681.
- Prihandono, I. 2011. Barriers to transnational human rights litigation against transnational corporations (TNCs): The need for cooperation between home and host countries. *Journal of Law and Conflict Resolution* 3(7) 89-103.
- Provost, C. 2011. Foreign investment in Mali's arable land jumps by 60%. *The Guardian*. 17 November 2011.
- Provost, C. and McClanahan, P. 2012. 'Sierra Leone: local resistance grows as investors snap up land', *The Guardian*. 11 April 2012.
- Ratsialonana, R.A., Ramarojohn, L., Burnod, P. and Teyssier, A. 2011. *After Daewoo? Current status and perspectives of large-scale land acquisitions in Madagascar*. International Land Coalition, Rome.

- Reuters. 2012. *Herakles ends bid to join green palm oil body over Cameroon plan*. Available at: www.reuters.com/article/2012/09/04/cameroon-herakles-rspo-idUSL6E8K4FJZ20120904.
- Ribot, J. (ed.). 2004. *Waiting for Democracy: The politics of choice in natural resource decentralization*. World Resource Institute: Washington D.C.
- Ruggie, J. 2011. Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework. Report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises.
- Samukai, S and Balloe, s. 2011. Letter of complaint to Roundtable on Sustainable Palm Oil (RSPO) from members and inhabitants of affected local communities within the proposed Sime Darby 220,000 ha oil palm concession in Liberia, October 2011. Available at: www.forestpeoples.org/sites/fpp/files/publication/2011/10/sime-darby-complaint-liberia-affected-communities-oct-2011.pdf.
- Schedler, A. 1999. "Conceptualizing Accountability" *The Self-Restraining State: Power and Accountability in New Democracies*. Ed. Andreas Schedler, Larry Diamond, and Marc F. Plattner. Boulder and London: Lynne Rienner Publishers, 1999. 13-28.
- Schoneveld, G.C., German, L.A. and Nutakor, E. 2011. Land-Based Investments for Rural Development? A Grounded Analysis of the Local Impacts of Biofuel Feedstock Plantations in Ghana. *Ecology and Society* 16(4) 10.
- Seneweb. 4 May 2012. Incarcérés dans l'affaire des terres de "Mame Tolla Wade" : Les 12 paysans de Diokoul bénéficient d'une liberté provisoire. Available at: www.seneweb.com/news/Justice/incarceres-dans-l-rsquo-affaire-des-terres-de-quot-mame-tolla-wade-quot-les-12-paysans-de-diokoul-beneficient-d-rsquo-une-l_n_65917.html.
- SLIEPA. 2010. Leasing Agricultural Land in Sierra Leone. Information for Investors. March 2010 PPT document. Published online by Oakland Institute. Available at: www.oaklandinstitute.org/sites/oaklandinstitute.org/files/Reference%20Sierra%20Leone%20SL_agrilandleasing_09March.pdf.
- SMNE. 17 May 2012. Open letter to President Obama. Press release. Available at: www.solidaritymovement.org/downloads/120517-Obama-open-letter-ethiopia.pdf.
- Stillman, P.G. 1974. The Concept of Legitimacy. *Polity* 7(1) (Autumn, 1974) 32-56.
- Sulle, E. and Nelson, F. 2009. *Biofuels, land access and rural livelihoods in Tanzania*. IIED, London. Available at: www.iied.org/pubs/12560IIED.html.
- Teyssier, A., Ramarjohn, L. and Ratsialonana, R.A. 2010. Des terres pour l'agro-industrie internationale ? Un dilemme pour la politique foncière malgache. *EchoGéo* 11, p. 17. Available at: <http://echogeo.revues.org/11649>.
- Thiam, A., 2012. Affaire de la ferme Mame Tolla Wade – les douze paysans de Louga fixés sur leur sort aujourd'hui. Walfadjri, 22 February. Available at: <http://allafrica.com/stories/printable/201202220569.html>.
- Tienhaara, K. 2012. The Potential Perils of Forest Carbon Contracts for Developing Countries: Cases from Africa. *Journal of Peasant Studies* 39(2) 551–572.

- TNRF, 2012, 'Understanding Land and Investments in Tanzania', Arusha, Tanzania Natural Resource Forum.
- Toulmin, C. and Quan, J. 2000. Registering Customary Rights. In: Toulmin, C. and Quan, J. (eds). *Evolving Land Rights, Policy and Tenure in Africa*. Issues Series, DFID/IIED/NRI, London. 207-228.
- Touré, O., Seck, S.M., Dieye, A., Ba, C.O. and Faye, I. 2012. *Rapport de synthèse des ateliers paysans sur la réforme foncière et les enjeux de sécurisation foncière des exploitations familiales au Sénégal*. CNCR/IPAR, Dakar. Available at: www.cncr.org/IMG/pdf/Rapport_synthese_Ateliers_CNCR.pdf.
- Tsikata, D. and Yaro, J. 2011. Land Market Liberalization and Trans-National Commercial Land Deals in Ghana Since the 1990s. Paper presented at the International Conference on Global Land Grabbing, Brighton, 6-8 April 2011. Available at: www.future-agricultures.org/index.php?option=com_docman&task=cat_view&gid=1552&limit=10&limitstart=30&order=hits&dir=DESC&Itemid=971.
- UNESCO. 2012. Freedom of Information in Africa. Available at: www.unesco.org/new/en/communication-and-information/freedom-of-expression/freedom-of-information/foi-in-africa.
- ViaCampsina . 17 April 2011. It's time to outlaw land grabbing, not to make it "responsible"! Press Release. Available at: <http://farmlandgrab.org/post/view/18457>.
- Walker, N., Megy, S., Kamara, V. and Butscher, M. 2012. *Agricultural Land Concessions and Conflict in Liberia*. Policy Analysis Brief. Early Warning Early Response (EWER) Working Group. Monrovia, Liberia, 15 June 2012.
- Wisborg, P. 2012. Justice and sustainability: Resistance and innovation in a transnational land deal in Ghana. Presented at the World Bank Conference on Land and Poverty, 23-26 April 2012.

All websites referred to in this report were accessed between February 2012 and January 2013.

Accountability in Africa's land rush:

what role for legal empowerment?

In recent years, there has been a renewed interest in acquiring farmland for agricultural investments in lower-income countries. Whilst such investments can create jobs, improve access to markets and support infrastructure, many large land deals have been associated with negative impacts for local populations, including the dispossession of land and other resources and increased conflict over economic benefits. There is growing evidence on the scale, geography and impacts of large deals. But less is known about how the legal frameworks regulating this land rush shape opportunities and constraints in formal pathways to accountability; and how people who feel wronged by land deals are responding to seek justice, and to what ends.

This report assesses the state of evidence on pathways to accountability in the global land rush, with a focus on Africa. It also identifies areas for a new research agenda that places accountability at its centre.

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