

7. Discussion

The country studies have provided insights into the diverse settings of Sierra Leone and the Philippines. The findings from the two countries and the four cases of large-scale land investments help me conclude. In a first step, I will draw a systematic comparison between the two countries and four cases (chap 7.1). In a second step, I will abstractly formulate the findings and discuss how the two additional conditions fit into an extended theoretical framework (chap 7.2).

7.1 Comparing Sierra Leone and the Philippines

My findings from Sierra Leone and the Philippines showed the relevance of the three core conditions conceptualized in the theoretical framework and helped me to identify two possible additional conditions. In the following, I will discuss the core and additional conditions in a comparative way.

The national legal opportunity structure between Sierra Leone and the Philippines varied considerably. The Sierra Leonean legal framework has considerable shortcomings in protecting customary ownership and use rights. Furthermore, unlike in the Philippines, there are no limits to foreign ownership of agribusiness companies or ceilings for land leases. In the Philippines, many smallholders can claim ownership and are protected from eviction. The differences in the tenure system and the regulatory framework seem to influence the type of investment. While both cases considered in Sierra Leone were large-scale leases with the company managing the whole plantation, the cases from the Philippines had a nucleus plantation on leased land in combination with contract-growing schemes. I suspect that this mirrors tendencies in the countries more generally; however, I do not have statistical data to underline this claim.

Irrespective of the type of investment, the different legal situations in the two countries considerably affected smallholders in making decisions about the projects. Both cases from Sierra Leone showed that most affected smallholders – customary owners or users of the land – hardly had any say in deciding about the large-scale land deal. Only in the case of Addax there was space for negotiation, as the company had gone beyond the legal re-

quirements of the country. In the Socfin case, local smallholders tried to defend their customary rights; however, so far, they were not successful.

The two cases in the Philippines are different in this regard. Smallholders were able to individually decide if they wanted to take part in the investment, either through individual contracts in the case of GFII or through joining a cooperative in the case of Agumil. In both cases, some people actively decided against participating. Nonetheless, some problems arose, in the case of GFII, because of wrongful land claims and, in the case of Agumil, because many cooperatives' members were not fully aware of the risks of the investment. The case studies thereby show that legal provisions in themselves are not automatically able to create ventures that benefit local actors. Instead, laws and administrative orders have to be implemented and enforced.

In regards to support networks, the overall picture varies between the two countries: National civil society actors involved in the Sierra Leonean cases are part of the same network, which formed around the issue of large-scale land deals. In both cases, national and international partners ran advocacy campaigns and provided local actors with legal representation, capacity building, and, in the case of MALOA, financial resources. International donors provide crucial funding for the Sierra Leonean NGOs and therefore contribute considerably to local support.

In contrast, civil society activism in the Philippines focuses on broader land issues, mainly the agrarian reform. There are two blocs in the civil society, which follow different ideological ideas and employ different strategies. While both blocs maintain international links, they are less dependent on international funding than civil society actors in Sierra Leone.

Comparing all four cases across countries, Agumil is the only case in which the condition of a strong support network was absent. As described in the case study, one possible explanation is the non-alignment of goals. The goal of the cooperatives to achieve economic wellbeing is counterproductive for the goal of NGOs to stop all oil palm expansion on Palawan. Similar divides between defensive activism seeking to stop palm oil expansion and contract farmers, who struggle for better conditions, have been observed in the oil palm industry in Indonesia (Pye 2010: 853). Furthermore, the case of the indebted cooperatives does not neatly fit the 'land grabbing' narrative, as the cooperatives entered into contracts with Agumil voluntarily (not necessarily well informed though). The case can, therefore, be seen as an example of the difficulty of receiving civil society sup-

port if the issues at hand do not fit existing frames used by relevant CSOs (Bob 2005: 27).

Regarding the other three cases, the type of civil society support varied between GFII and the Sierra Leonean cases. In the case of GFII, the involved network is a left-wing peasant movement, with a much more militant stance. The peasant movement was highly effective in its mobilization efforts. It exerted considerable pressure: “mere mention of the militant peasant organization provided smallholders a convenient leverage tool vis-à-vis the company” (Rutten et al. 2017: 11). The well-known militancy of the peasant movement (and possibly its indirect links to the NPA) might have a positive effect on locals to achieve their goals.

The NGO advocacy around the land deals in Sierra Leone differs in this regard and focuses on dialogue and peaceful means. National NGOs and the local activist organization MALOA frequently emphasized their wish to resolve issues peacefully and have a dialogue with the respective company (interviews SL11, SL19, SL33, SL42). There is a fear of being viewed as ‘inciting’, which in the context of post-war Sierra Leone can quickly delegitimize activism. It seems likely that militant forms of activism similar to the peasant-based KMP in the Philippines would not be considered appropriate in Sierra Leone. Framing of grievances by civil society actors and their respective strategies are linked to the country context and history. Consequently, the condition of a strong support network can take different forms and can be a militant peasant movement in one case and a traditional NGO, which provides locals with a lawyer in another case.

When it comes to the receptivity of companies, no clear patterns emerge between the two countries. As mentioned earlier, the cases in Sierra Leone were leases only, whereas the investments in the Philippines included growership arrangements. Furthermore, the Philippine cases presented joint ventures with the involvement of national businesspersons. Yet, there was no systematic difference in the receptivity of companies or in the way companies dealt with local actors. The companies were regarded as outsiders by the local population in all cases and initially instilled hopes for economic development.

The relevance of the difference between receptive and unreceptive companies was shown through the comparison between the Addax and the Socfin case in Sierra Leone, as discussed in chapter 5.5.1. The Philippine cases do not add much to this. Furthermore, I was not able to establish the receptivity of GFII back in 2011 when the legal mobilization took place. Nonetheless, in the setup today, smallholders seem to have the most bar-

gaining power in the GFII investment, as they can decide every three years if they want to continue growing sugar cane for the company.

Apart from the three core conditions, the country chapters identified and discussed two possible additional conditions: The role of local political elites in Sierra Leone and the unity among local actors in the Philippines. Comparing them across countries and all four cases provides further insights and validates their relevance.

The role of local and national political elites is one possible additional condition in explaining legal mobilization success and failure. The case of Socfin in Sierra Leone made this condition visible: Local customary authorities and national politicians derailed the mediation process of the Human Rights Commission of Sierra Leone. Furthermore, local authorities suppress local mobilization and dissent. Political elites essentially block mobilization attempts and ‘protect’ the company.

In the GFII case in the Philippines, local political elites played both negative and positive roles. Initially, barangay captains wrongfully claimed land or signed wrongful land claims. In these cases, they misused their position, which gave them the power to acknowledge informal land rights. However, in the follow-up, legal and other mobilization efforts pressured the Governor to intervene and to ensure that legitimate land rights are protected.

The two examples show that elites, who have a key role in decision-making processes about large-scale land investment, might misuse their position for their own personal gain. This finding is in line with existing research from Ghana, Mozambique, and Zambia, which shows that customary authorities, who are supposed to represent their constituencies, tend to abuse their power (German et al. 2013: 11; Schoneveld 2017: 127; Lanz et al. 2018). Similar dynamics can be observed at the national level, as evidence from Ethiopia, Nigeria, Zambia and Ghana shows:

“[I]n all four countries, investors were found to have offered well-remunerated positions to ex-politicians or to later hire government officials involved in enabling project establishment. In Ghana and Nigeria, there were even cases where government officials were hired as ‘consultants’ while in public service.” (Schoneveld 2017: 126)

In these contexts, local and national political elites are highly incentivized to ‘protect’ companies from local demands and derail legal mobilization attempts. In these situations, locals might rely on other elite actors or, ideally, on an independent judicial system to protect their rights. Further-

more, as the case of Addax indicates, a receptive company might be more willing to deal with local communities directly. This should especially hold for a company whose corporate culture emphasizes transparency and the avoidance of corruption.

The second additional condition is the degree of unity among local actors. I explored the relevance of this condition in the Agumil case where unity among cooperatives was missing. The other three cases provide additional support for this finding. Especially the Addax case is instructive in this regard. Involved civil society actors named the unity among the community of Masetleh as a relevant factor for success (interviews SL26, SL28, SL51). As described in the analysis (chap 5.3.2 + chap 5.3.4), the supporting NGOs helped in facilitating the unity among community members (interview SL51).

In the case of GFII, the pre-existing organization DAGAMI ensured unity among its members, which the support network probably reinforced. In the case of Socfin, unity among discontent landowners and users was created through MALOA, which presented grievances as one unified voice. At the same time, there were reports that Socfin had bought out some members of MALOA through offering them jobs at the company (interview SL42). Similar practices of dividing discontent groups through offering material benefits were reported by civil society members in the context of other investment projects in Sierra Leone (interview SL26, SL36) and seem to mirror company strategies in other countries:

“[...] MNCs donate money and/or materials goods to communities in exchange for their support. Although the sums involved are miniscule for the MNCs, they are significant for poor communities. This practice may pit individuals within communities against one another, allowing the MNCs to divide and conquer the opposition.” (Calvano 2008: 796)

Splitting up local actors seems to be one possible counter-strategy taken up by some companies. Internal unity requires internal mobilization and consensus-building among local actors. In the cases of Socfin and GFII, this was fulfilled by local organizations, whereas outside supporters played an essential role in creating unity among local actors in the Addax case. Similar attempts to create unity among cooperatives in the Agumil case had happened, as the example of the Association of Palm Oil Growers in Southern Palawan showed. However, cooperatives were not able to sustain the organization over time.

The comparison of the three core and the two additional conditions revealed differences and similarities between the two countries and the four

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cases. The cases showed the relevance of a favorable legal system but also its limits if it is not implemented properly. Support networks did play an important role even though frames and strategies differed between the two countries. Differences of the company helped to explain different outcomes, especially in the Sierra Leonean cases. Finally, both additional conditions seemed to play a role across countries. The unity of actors turned out to be relevant in all cases, whereas the role of local and national elites was not as clear-cut. Yet, there is evidence that they can potentially block legal mobilization attempts.

7.2 *An extended framework of legal mobilization success in large-scale land deals*

The previous chapter compared central findings across the two countries and the four cases. I now link the results back to my theoretical framework. I will first discuss the relationships between the three core conditions on an abstract level, before including the two additional conditions in a second step. In a third step, I will show how the additional two conditions fit into the concept of an extended bargaining situation, which can capture the complexity of actors in large-scale land deals.

To identify relationships among the three core conditions looking at the truth table is helpful.

Table 17 Empirical truth table of core conditions

	national LOS	support network	company	outcome
Addax	unfavorable	strong	receptive	success
Socfin	unfavorable	strong	unreceptive	failure
GFII	favorable	strong	-	success
Agumil	favorable	weak	unreceptive	failure

The truth table shows two configurations in which legal mobilization was successful: In the case of Addax, the national legal opportunity structure was unfavorable. Nonetheless, a strong support network and a receptive company resulted in a successful outcome for the community of Masetheh. In the case of GFII, a favorable national legal opportunity structure, in combination with a strong support network, led to a successful outcome as

well. Unfortunately, I was not able to identify the receptivity of the company in that case; however, evidence from process tracing indicated that the condition was probably not significant, as the conflict was resolved through the Governor, holding the barangay captains accountable.

Evidence of the failed legal mobilization attempts can provide further clarification for the relationship between the three conditions. Comparing the Addax to the Socfin case shows the relevance of the receptivity of the company in cases in which the national legal opportunity structure is weak, but network support is still strong. This shows the relevance of companies following international soft law standards in countries with a weak land governance structure.

The Agumil case points to the relevance of the support network, which was absent in this case. However, if the missing support or the unreceptivity of the company is the main cause for the failure of the legal mobilization attempt is unclear. Yet, I suspect that the cooperatives could have been successful with more support. This would imply that the support network is a necessary condition for legal mobilization success.

Overall, my considerations lead me to the following relationships between the three conditions: If the national legal opportunity structure is favorable and local actors receive enough help from their support networks to enforce law, legal mobilization attempts should be successful. In the case that the national legal opportunity structure is unfavorable and local actors get the support of networks to use national and international less formalized norms, the legal mobilization success depends on the receptivity of investing companies.

Apart from the three core conditions, the two additional conditions can be conceptualized on an abstract level, as discussed earlier.

The role of political elites⁷⁴ is a relevant condition, which might be especially helpful in explaining legal mobilization failure. Existing research on large-scale land deals has emphasized that local and national political elites usually play an important role in facilitating these deals (Keene et al. 2015; Li 2015; Wolford et al. 2013), and as described in the previous chapter, often have a personal interest in ‘protecting’ investing companies. At the same time, as research on ‘rightful resistance’ shows, state officials can play a positive role, as they might act as an ally and enforce existing regulations (O'Brien/Li 2008). Different members of the same administration may be in favor of or against a large-scale land deal, and they might be open to lo-

74 Can be local or national elites, or both, depending on the context.

cal goals to varying degrees. In these cases, identifying a powerful ally within the administration might be a critical element to ensure that legal mobilization attempts can proceed and be successful.

The degree of unity of local actors as a relevant condition for legal mobilization success is logical from a social mobilization and business management perspective:

“Without collective action, constituents would be disconnected individuals lacking a coherent interest in corporate behavior, and managers would fail to perceive these constituents as consequential. By framing their interests vis-à-vis the focal corporation, collective action among potential stakeholders facilitates the emergence of stakeholder awareness, both among the constituents of the organization and in the eyes of managers.” (King 2007: 22–23)

My initial model did not pay specific attention to these internal mobilization processes, as I focused my research question on local actors, who were organized to the degree that they would voice collective demands. However, even when previous mobilization has taken place, it does not mean that it remains unchallenged or that members of an organization stay unified. The dissolved Association of Palm Oil Growers in Southern Palawan is a case in point and shows the need of local actors to create a certain degree of unity among themselves.

Adding these two conditions to the empirical truth table gives a first impression about their role. However, it should be noted that the explanatory power of the conditions diminishes the more conditions are added. This is related to the underlying logic of a configurational approach, which, as described in chapter 3.1.2, takes seriously all possible combinations in which conditions can appear and act together. For five conditions, this means that theoretically, 32 combinations are possible⁷⁵. I, therefore, combine the results presented in the truth table with the findings from process tracing and theoretical considerations to draw conclusions.

75 The number of possible combinations is $2^{\text{number of conditions}}$. This shows the limits of applying a QCA logic to small-N research designs. The more conditions are included, the less meaningful the results get as the combinations only describe one specific case (Berg-Schlösser/Meur 2009: 27).

Table 18 Empirical truth table of all conditions

	national LOS	support network	company	degree of unity	Political elites	outcome
Addax	unfavorable	strong	receptive	unified	-	success
Socfin	unfavorable	strong	unreceptive	unified	blocking	failure
GFII	favorable	strong	-	unified	-	success
Agumil	favorable	weak	unreceptive	not unified	-	failure

Focusing on the additional conditions, two cases stick out: Agumil and Socfin. As discussed in the previous chapter, Agumil is the only case with missing unity of local actors and missing a strong support network. There is, therefore, the possibility that the two conditions are so closely linked that they could be expressed by one condition⁷⁶. However, the question of the role of the condition of internal unity for the outcome of legal mobilization would still be relevant. Following theoretical considerations discussed earlier and my findings from process tracing, I assume that a certain degree of internal unity among local actors is a necessary condition for legal mobilization success.

The case of Socfin was the only one in which legal mobilization was stopped by local political elites. In other cases, political elites did play a role as well; however, it is difficult to break their behavior down into simple categories. Government authorities at different levels usually play a role in implementing large-scale land deals. Yet, whether they are able to facilitate or stop legal mobilization is linked to the respective configurations of power within the political system. I suspect that legal mobilization attempts relying on soft law instruments should be easier to derail than hard law instruments such as litigation, at least under the condition of a sufficiently independent judiciary. Furthermore, I assume that the role of local elites is less relevant in cases of a receptive company, as they might be less likely to hide behind power holders. However, these assumptions need further research.

Returning to the starting point of my theoretical framework, the two additional conditions can be integrated into the bargaining situation. My original version described a simple bargaining situation between two parties: Local actors on the one side and transnational corporations on the other

⁷⁶ A combinatory condition could be the degree of mobilization of local actors, which could include the elements of internal and external mobilization.

side. Yet, my empirical work showed a more complex picture, which needs to be incorporated into the bargaining model, taking into consideration multi-level and multi-party bargaining. On the side of local actors, internal bargaining about a common position needs to be considered, while local and national elites can potentially stop or enable legal mobilization attempts on the side of the company. The following figure gives a simplified impression of this extended bargaining model.

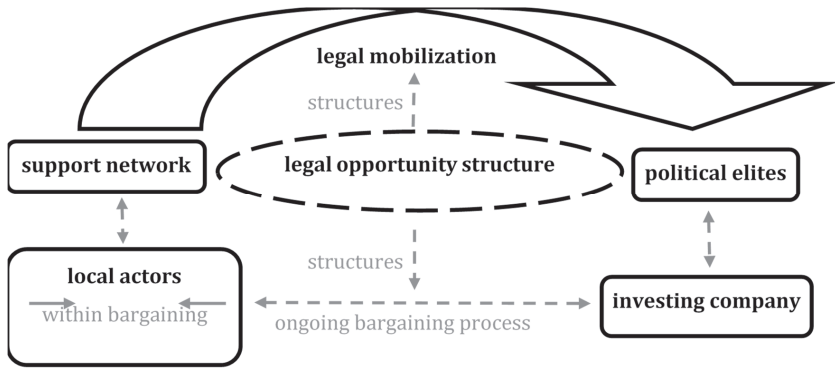


Figure 7 Extended bargaining model

Of course, graphic representations of complex realities are always somewhat limited. Yet, figure 9 helps to summarize my research findings and my final conceptualization. As in the initial model in chapter 3.2.2, there is an ongoing bargaining process between local actors and investing companies. However, additional relevant actors are included in the extended model. The support network helps local actors to pursue legal mobilization. Political elites have the ability to ‘protect’ investing companies, even though they are rarely as unified as presented in this figure. Within bargaining is added to local actors to signify the relevance of the condition of unity⁷⁷. The legal opportunity structure is an underlying structure, which influences the bargaining power of different actors, their role in the overall situation and the possibilities for legal mobilization.

77 Within-bargaining theoretically applies to all other parties as well.