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To cite this article: Rebecca Smalley & Esteve Corbera (2012) Large-scale land deals from the inside out: findings from Kenya's Tana Delta, *The Journal of Peasant Studies*, 39:3-4, 1039-1075, DOI: [10.1080/03066150.2012.686491](https://doi.org/10.1080/03066150.2012.686491)

To link to this article: <https://doi.org/10.1080/03066150.2012.686491>



Published online: 28 May 2012.



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Large-scale land deals from the inside out: findings from Kenya's Tana Delta

Rebecca Smalley and Esteve Corbera

Although there is alarm over the global land rush, many plans for the large-scale transformation of land acquired by investors remain on the drawing board. Based on a study of two land deals in Kenya's Tana Delta, this paper considers the processes by which blueprint designs are amended or delayed through the involvement of local actors. It demonstrates that even top-down acquisition of land by powerful state-linked actors with the support of policy discourse can be stalled by the rural poor, particularly if the latter have strong customary claims and links to wider opposition. At the same time, large-scale land acquisition is not automatically opposed by local people, who may see land deals as an opportunity to safeguard access to resources and to support their development expectations. The paper also suggests that although consultation and the existence of recognised property rights appear to result in fairer project designs, land deals are likely to reflect the decision-making power of an elite that is not fully informed. The conclusion affirms the need for more nuanced, place-based analyses of large-scale land deals, taking into account tenure arrangements, resource access mechanisms, land management discourses and the role of cross-scale agency and alliances in building support for, or opposition to, such deals.

Keywords: rural development; land deals; ranches; tenure; discourse; access; Kenya

1. Introduction

The role that agriculture can play in sub-Saharan African rural development is a live topic of debate. After years of intellectual and financial neglect of the sector, the persistence of rural poverty and the failure of agrarian economies to take off have focused minds on the old question of whether agriculture can contribute to poverty reduction and, if so, what kind of agriculture (Akram-Lodhi 2008). Although smallholder farming dominates in sub-Saharan Africa, the average farm size being 2.4 hectares (ha) (World Bank 2011), there has been a modern development of large, export-oriented operations. These began with the settler farms and corporate

The authors would like to thank the interviewees who gave up their time and agreed to have their wishes and concerns documented. We would also like to thank Dr. Abdirizak Nunow of Moi University for his support, the research assistants in Tana Delta without whom this research could not have taken place, and three anonymous reviewers for commenting on an earlier version of this paper. Esteve Corbera acknowledges the financial support of the Spanish Ministry of Science and Innovation (RYC-2010-07183) and of a Marie Curie Career Integration Grant within the 7th European Community Framework Programme (PCIG09-GA-2011-294234). Any errors or omissions remain the authors' sole responsibility.

plantations of colonialism, and continued after independence as new African governments explored options for intensifying and commercialising their agricultural production through state farms, private estates and agro-food complexes (Hinderink and Sterkenburg 1985, Loewenson 1992). Large estates have been checked by the forces of land reform, among other factors, and today many African countries tend to have a dualistic structure of a smallholder majority with a few large commercial enterprises (OECD 2008, World Bank 2009). We understand large-scale commercial farms to be privately owned, capital-intensive, centrally managed estates or holdings 'with an acreage far above the national average' and which 'employ much more hired than family labour and practise clear labour division within a management hierarchy' (Von Blanckenburg 1994, 1).

Large-scale commercial farms have comparative advantage over smallholdings when it comes to mechanised or irrigated cultivation of certain plantation crops such as sugar (Poulton *et al.* 2008). Overall, though, small farms have been judged more efficient, and since the 1960s they have been the focus for rural development strategies (Ellis and Biggs 2001). However, observers now question whether the viability of small farms can continue. On one hand, technology and an increasingly globalised agri-food system are creating economies of scale for larger, vertically integrated farms; on the other, subdivision and environmental marginalisation are hindering small-farm productivity (Diao *et al.* 2010).

In this context, and particularly since 2008, rural development studies have reported a new phenomenon of 'land grabbing'. This describes the acquisition of large tracts of farmland or uncultivated land, typically for producing food or fuel crops (Cotula 2011, World Bank 2011). A more neutral term is 'large-scale land acquisition', which allows for the possibility of a just transfer of land. The land is being bought or, more often, leased by investors, food-insecure countries and agribusiness firms, spurred by the 2007–2008 food-price crisis, demand for biofuels, capital flight into land and an improved investment environment in developing countries (Cotula *et al.* 2009, Haralambous 2009, IFPRI 2009). The largest number of cases occurs in sub-Saharan Africa, where it is widely perceived that empty or under-used land is available (Haralambous 2009, World Bank 2011). The acquisitions range from tens to hundreds of thousands of hectares (IFPRI 2009, Cuffaro and Hallam 2011). However, many land-grab deals remain on the drawing board. Only 21 percent of deals analysed by the World Bank in 2011 had been operationalised (World Bank 2011). Explanations put forward for this include unrealistic project designs, technical obstacles, changing investment conditions and the land being hoarded by speculative investors. The Bank also noted that projects have been disrupted by opposition from local land users (see also IFPRI 2009). As Poulton *et al.* (2008, 17) indicated in their review of barriers to commercial agriculture in Africa, 'the problems arising from multiple and overlapping claims to land ... can be a particular problem for large-scale agribusiness ventures'.

We present here a case study of two large-scale deals in Kenya's Tana Delta, with the aim of identifying conditions that facilitate large-scale land acquisition or impede its progress. The Kenyan agricultural sector is known for a relatively high degree of export-oriented commercialisation and for the contribution that large farms and plantation estates have made to this since colonial times (Bratton 1977, Mwangi 1981, Deininger and Binswanger 1995, Winter-Nelson 1995, Bates 2005, Dever 2009). Nevertheless, smallholdings of 3 ha or less have also been instrumental to production (Jaffee 1994, Gow and Parton 1995, Poulton *et al.* 2008) and they remain

the predominant farm size in Kenya, accounting for 75 percent of total agricultural output (GoK 2010, Mandere *et al.* 2011). The majority of farmers in Tana Delta have an average farm size of just 0.8 ha (RoK 2009).

In the following section we set out our chosen conceptual tools, drawn from access and discourse theory. The third section introduces the case-study area, and in the fourth section we present evidence for support and resistance towards both deals among affected communities, attributable to a range of institutional, discursive and historical drivers. We argue that one of the deals, a foreign acquisition, has proceeded faster than the other, a domestic development, owing to differences in the tenure arrangements, consultation processes and value of the targeted land. We go on to discuss the mechanisms by which actors gain or maintain access to the land affected by the deals and the implications of the findings for the land-grab debate. We conclude by noting that although Kenya's policy environment overwhelmingly supports the introduction of large top-down agricultural schemes, local visions of rural development still envisage a future for small-scale farming and pastoralism, and have not allowed the deals to go ahead without amendment or opposition.

2. Land deals through the lens of access and discourse theory

2.1. Contextualising land acquisition

Large-scale commercial agriculture has historically taken distinct forms depending on the country and location's tenure regime, existing agrarian law, the type of crop and the targeted market, resulting in distinct production arrangements and business models (Vermeulen and Cotula 2010b). In Kenya, rural people have been involved in agribusiness models since colonialism, through wage labour on tea, coffee and sisal estates, participation in outgrower schemes for sugarcane and cut flowers, and work on medium- and large-sized horticulture farms. Kenya has one of the largest contract farming sectors in sub-Saharan Africa (Jaffee 1994, UNCTAD 2011, Oya 2012). The socio-economic outcomes of its outgrower schemes have been well documented, and they are by no means universally positive for participating farmers or surrounding communities (Mulaa 1981, Glover and Kusterer 1990, Wegulo and Obulinji 2001). In some cases, farm enterprises have retreated from outgrowing back to a pure estate model (see Jaffee 1994 and Dever 2009 for examples).

Although the recent global land rush is feared to signal a renaissance of plantations, many initiatives include a component for outgrower farmers to supply a nucleus estate (Haralambous *et al.* 2009, Cotula 2011, GRAIN 2012, Oya 2012). The prospect that large-scale land acquisition could introduce more contract farming into rural economies gives cause for optimism to those who believe smallholders will benefit from technology transfer and incorporation into the global agri-food regime (see IFPRI 2009, Robertson and Pinstrup-Andersen 2010, World Bank 2011). Assessed from this perspective, contract farming offers a means of small-farm survival (Oya 2012). Agrarian political economists approach the issue in terms of transformed land and labour relations, and, along with certain activist organisations, are more deeply critical of the arguments for smallholder agribusiness models (GRAIN 2008, Friends of the Earth 2010, Cochet and Merlet 2011, Li 2011). Some critical commentators situate the land rush within the political economy of global agro-food/fuel networks and capital's search for frontiers of accumulation, often framing it as neo-colonialism (Huggins 2011, Land Research Action Network 2011, McMichael 2011). We believe that conceptualising events in this way understates the

contribution of local actors in making or resisting land deals and the complicit role of domestic states and developers. Cases of domestic land acquisition have received comparatively little attention, even though most recorded land deals involve domestic individuals or companies (World Bank 2011). Moving the focus of research from structural core–periphery forces to the local context can reveal differences between individual cases of large-scale acquisition (Borras and Franco 2010) and dig down to the roots of local support and opposition.

2.2. Framing access

Borras, McMichael and Scoones (2010, 582) write of the ‘shades of grey’ in how proposed land deals play out in specific cases. The institutions and micro-processes that determine outcomes include the level of democracy among villages, the terms of the deals and ecological factors. We take a step further and adopt Ribot and Peluso’s access theory (2003) to argue that benefiting from large-scale land deals, from their contractual terms to the actual commercialisation of any produced crop, is mediated by what Ribot and Peluso call rights-based and other structural and relational means of access. The former encompass legal mechanisms such as title, and illegal mechanisms such as coercion and theft. In the context of large-scale land deals, these can be critical means through which certain actors are able to secure and/or enforce property rights over land for agricultural development, or to lease and/or cede land for that purpose.

The dominant message on property rights in the development literature is that defined, registered tenure is essential for safeguarding local interests in land acquisitions (World Bank 2009, Deininger 2011). Yet evidence points to common failures of land titling programmes in Africa (Peters 2009), and initiatives to formalise customary arrangements in a bid to strengthen people’s tenure can backfire by encouraging elite capture (Hodgson and Schroeder 2002, De Schutter 2011). A review of recent land deals in six African countries found that most of the acquired land was under government ownership but managed *de facto* by local users (Vermeulen and Cotula 2010a). According to the authors, even in cases where local land users had officially-recognised tenure, this would not have given them enough bargaining power to affect outcomes of deals in their favour, because of the weak procedural rights afforded to everyday people.

Illegal mechanisms can provide alternative means of gaining or retaining access to land. Examples of land claims being supported by force, from village-level arson to military-backed land grabbing, have been documented in southeast Asia and some Latin American countries (Grajales 2011, Hall *et al.* 2011). This is not surprising, as bribery, corruption and coercion have very often underpinned the management and conservation of natural resources (Robbins *et al.* 2006, Kolstad and Soreide 2009), as well as the divestiture or restitution of land (Dorondel 2009, World Bank 2011).

Ribot and Peluso’s category of structural and relational mechanisms includes a variety of other mechanisms relevant to understanding the development of large-scale land deals, such as access to capital, technology, labour and markets. Because the deals analysed here are still embryonic, we do not pay in-depth attention to how all these mechanisms actually play out. We nonetheless reflect on how people’s opinions on these issues influence their position in either supporting or rejecting the land deals. We also consider how access to knowledge and authority enables not only project developers to plan and implement deals, but also local land users to articulate

their responses and participate in the deals' negotiations. As Vermeulen and Cotula (2010a) have shown, local people's ability to secure favourable terms in deals with outside investors depends on their capacity to access decision-makers and acquire information. Additionally, access to land resources and their flowing benefits is strongly mediated by cross-scale institutions, ranging from intra-household and -community relationships to national processes such as the justice system and impact assessment procedures that define whose voice counts (Ribot and Peluso 2003, Amechi 2009, Vermeulen and Cotula 2010a).

2.3. *The importance of discourse*

When land deals are not yet operational and actors are still competing over the right to benefit in future, the role that discourse plays as a mediating access mechanism is perhaps more important than, say, securing access to labour or markets. We define discourse as a certain way of seeing and giving meaning to the world. An example is the colonial discourse of 'the profligate native', which made certain assumptions about indigenous land-use practices and judged them against European values (Li 2007). Discourse is given expression through narratives, rhetoric and argumentation and, over time, becomes naturalised and accepted as truth (Gasper and Apthorpe 1996, Adger *et al.* 2001). As Ribot and Peluso (2003) also maintain, discourse is a key means to produce categories of knowledge and justify forms of intervention and control over natural resources. In colonial Kenya, for example, the idea that Maasai were 'profligate natives' who did not use land to its full potential provided justification for the appropriation of their land by Europeans (Collett 1987).

Authors such as McCarthy and Cramb (2009), Hunsberger (2010) and Da Via (2011) have found that policy and development narratives often support large-scale land acquisition. Project proponents present a certain vision of rural development that involves commercial agriculture, and depict targeted land as empty or under-used. It is reminiscent of the colonial vision of the African landscape as a blank slate, simultaneously an Edenic wilderness and potential farmland 'ripe for settlement and colonisation' (Wylie 2007, 133, see also Ariza-Montobbio *et al.* 2010). Another characteristic of discursive strategies is the rhetoric of illogical persuasion (Gasper and Apthorpe 1996). For instance, several proposals for large-scale land deals promise to create local employment while at the same time heralding the labour-saving advances of irrigation technology (Li 2011). Conversely, research from other contexts provides evidence of marginalised groups mobilising narratives and of discourses being intentionally embedded in resistance strategies (e.g. Neumann 1995, Schwartz 2006). In order to understand and disaggregate local people's attitudes towards land deals as they coalesce around certain political positions, it might be helpful to broaden thinking from the preoccupation with what Wetherell (2007) calls 'big discourse' as a structural means of legitimisation or resistance. This creates more breathing space for the historical experiences and understandings of nature shaping personal life-worlds (Schutz and Luckmann 1973).

In summary, this paper is guided by the proposition that domestic players have a greater influence on large-scale land deals than they are accorded in the neo-colonialist argument. Institutions and a variety of access mechanisms – operating as part of or across institutions – may shape how residents respond to the deals. Additionally, the paper is informed by a particular interest in how local individuals

frame their life experience and how evolving land deals fit into their development concerns and expectations.

3. Case study and methods

3.1. Two land deals in Tana Delta

The Tana River delta is located at the Kenyan coast (Figure 1). It begins near the town of Garsen, where the river floodplain widens into the characteristic fan shape of a delta and the Tana meanders for approximately 45 km until reaching the ocean (Hughes 1990). The area is sometimes referred to as the Lower Tana. Upstream rains flood the wetland twice a year, corresponding to the rainy seasons of April–June and November–December. The flooding fills oxbow lakes and supports grassland, bush and riverine forest, plus an exuberance of birds and mammals that led conservationists to declare the Lower Tana a biodiversity hotspot and an internationally important bird area (Hamerlynck *et al.* 2010, Nature Kenya 2011). The district overall is considered low-potential, arid and semi-arid land (ASAL), with low, erratic rainfall (averaging 611 mm a year in Garsen)¹ and a high evaporation rate. The Tana easily breaches its soft alluvial banks, and there are winners and losers when the river floods or changes course; unlucky communities find themselves cut off or crops and livestock swept away.

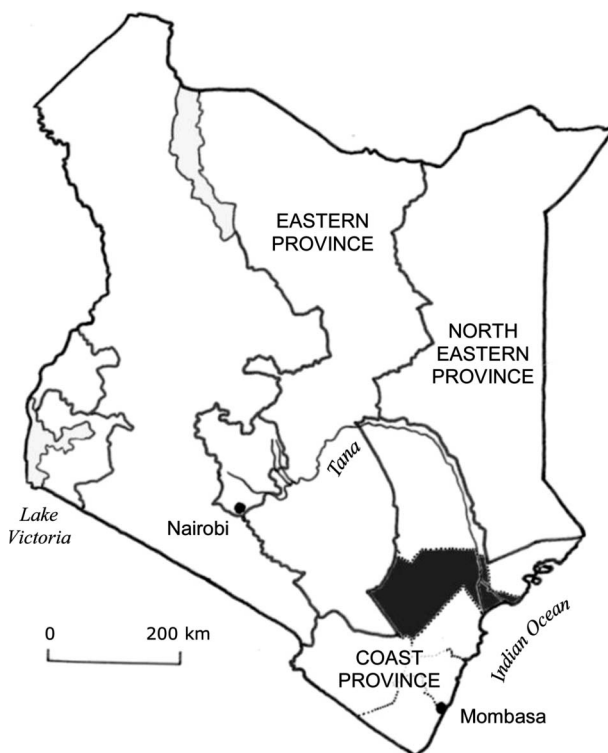


Figure 1. Tana Delta District.

¹Data for 1994–2007. Source: Kenya Meteorological Department, Garsen station.

'Tana Delta' also refers to the administrative district, with a population of 96,664 and density of 6 people/km² (KNBS 2009).² Comparable census figures of 1 person/km² in 1969 and 3 people/km² in 1979 indicate the extent of population growth (NES 1985). Tana Delta remains overwhelmingly rural, the main livelihoods being crop farming, pastoralism and fishing (RoK 2009). These activities are often associated with the largest ethnic groups: Pokomo farmers, Orma, Wardei and Somali pastoralists, and immigrant Luo and Luhya fishers.³ However, residents pursue a range of livelihood strategies that do not fit neat ethnic categories. Farmers and pastoralists alike engage in fishing, timber harvesting and charcoal making. Women might generate income by weaving mats or selling food; men pursue cattle broking, salaried jobs or casual labour. To cope with drought and livestock losses, Orma and Wardei pastoralists also grow crops. Their transition to agro-pastoralism is part of a process of agrarian change that has brought pastoralists into the money economy, changed their staple food from milk or meat to maize and increased elders' approval of education for children. Most Orma and Wardei that farm still keep livestock, however, which seems to provide more income options than are available to farmers, as women sell milk and men can 'cash in' animals when they need money. Thirty-four percent of the district's population aged 15 and over can read and write, compared with the national average of 71 percent (RoK 2009, UNDP 2010). There are 15,068 beneficiaries of food relief in the district (interview, Kenya Red Cross Society, 2 July 2011).

In the early twentieth century colonial officials established unsuccessful cotton plantations in the Lower Tana, and planners have wanted to reintroduce large-scale irrigated monoculture to the area since the 1950s (Ominde 1971, Miller 1981, NES 1985, Hughes 1987). Under the stewardship of the Tana and Athi Rivers Development Authority (TARDA) and the National Irrigation Board, a number of projects were introduced to grow rice, cotton and maize, notably schemes at Bura and Hola north of Tana Delta funded by the Kenyan government and the World Bank, the Lower Tana Village Irrigation Programme, funded by the World Bank and the Dutch government, and the Tana Delta Irrigation Project (TDIP), funded by the Japanese government. These projects were dogged by mismanagement, a lack of alignment with local practices and expectations, and extremely high capital costs (Adams 1990). Reliance on external funding and expertise came at the expense of local capacity and ownership (Osoro *et al.* 1983), and overlapping donor interests may have inhibited the emergence of cross-sectoral, regional planning (Little 1987, Rowntree 1990, KWF 2005). Managing projects was also hindered by remoteness and difficult environmental conditions (Ominde 1971, Miller 1981, Rowntree 1990, Van Eijk 1998). The TDIP scheme in particular was damaged by El Niño rains in 1997 (Hamerlynck *et al.* 2010) and lay dormant until being re-launched in 2009.

Despite advice to modify the development strategy, irrigating the Lower Tana remains a government objective. Encouraged by favourable research by the Kenya Sugar Research Foundation, TARDA has struck a deal with Kenya's Mumias Sugar

²In this article, we use 'Tana Delta' to refer to the wider geographical area demarcated by the district but excluding Assa location (see Figure 2), and 'the delta' to refer to the wetland.

³Smaller groups include Banjuni, Boni, Giriama, Watta and Wasanye. There are distinct Pokomo groups of Upper Pokomo (surveyed village 6), Lower Pokomo (villages 3 and 4), Malakote and Korokoro.

Company to cultivate sugarcane on a 16,000-ha estate east of the Tana. Farmers are expected to provide 4000 ha of their own land for outgrowing. The project, called the Tana Integrated Sugar Project (TISP), would extract water from the river for irrigation and includes an ethanol production plant and a livestock component for fattening beef cattle (HVA International and MA Consulting 2007).

Since 2008 there has been another wave of interest in the Lower Tana, particularly from foreign investors. Among them is the Canadian company Bedford Biofuels. It has acquired 93,337 ha to grow and process *Jatropha curcas*, a plant that has been used to produce biodiesel elsewhere in Kenya (Hunsberger 2010). Only 64,000 ha will be cultivated; the remainder will be kept for other uses. Bedford has sub-leased the land from six ranches, which are large tracts – typically several thousand hectares – leased for livestock production. The project is widely reported to be located in the delta, but most of the ranch land lies outside it see (Figure 2). Although this area is more arid, Bedford Biofuels does not anticipate the use of irrigation, planning instead to use dams and boreholes and rely on *Jatropha's* reputation for requiring little water (ABF 2010).

In accordance with Kenyan regulation, the TISP and the *Jatropha* project were both subject to an environmental and social impact assessment (ESIA) for approval by the National Environment Management Authority (NEMA). The TISP ESIA (HVA International and MA Consulting 2007) identified numerous potential negative impacts, including water shortages, biodiversity loss and displacement of villagers from project land. The authors of the Bedford Biofuels ESIA forecasted a similarly long list of impacts (ABF 2010). One finding was that clearing land for *Jatropha* could disrupt wildlife migration and increase the incidence of human–wildlife conflict. However, both ESIA's concluded in favour of the projects owing to the projected benefits of rural development, improved fuel security and poverty alleviation.

While insisting on certain conditions to minimise its environmental impact, NEMA licensed Bedford Biofuels to grow *Jatropha* as a 10,000-ha pilot, and the process of conversion from ranch to plantation is under way. In contrast, the proposal by TARDA–Mumias was deemed too sensitive to approve wholly. In 2008, NEMA awarded a conditional licence for an initial rice-growing phase of 5000 ha, agreeing to consider expansion at a later date (NEMA 2008). At the time of writing, the TISP is in stasis (see Table 1 for key project characteristics).

3.2. Methodology

Fieldwork was conducted during July–September 2011. At national and regional levels, thirteen interviews were held in person, by phone or by email with stakeholder organisations based in Tana Delta, Nairobi and Nakuru. The organisations and individuals interviewed included Garsen market officials, a government planner, Kenya Land Alliance, Kenya Livestock Marketing Council (KLMC), Kenya Red Cross Society, Kituo cha Sheria (a Kenyan NGO that provides advocacy and legal aid on human rights), the Lower Tana Delta Conservation Trust (LTDCT), the Ministry of Livestock (MoL), the National Agriculture and Livestock Extension Programme, Nature Kenya, the Pastoralists Development Network of Kenya and two local activists. Unfortunately, Bedford Biofuels and TARDA declined to participate and it was not possible to interview conservationists and pastoralists who were part of the initial opposition to the TISP in 2004/5, or informal local activist

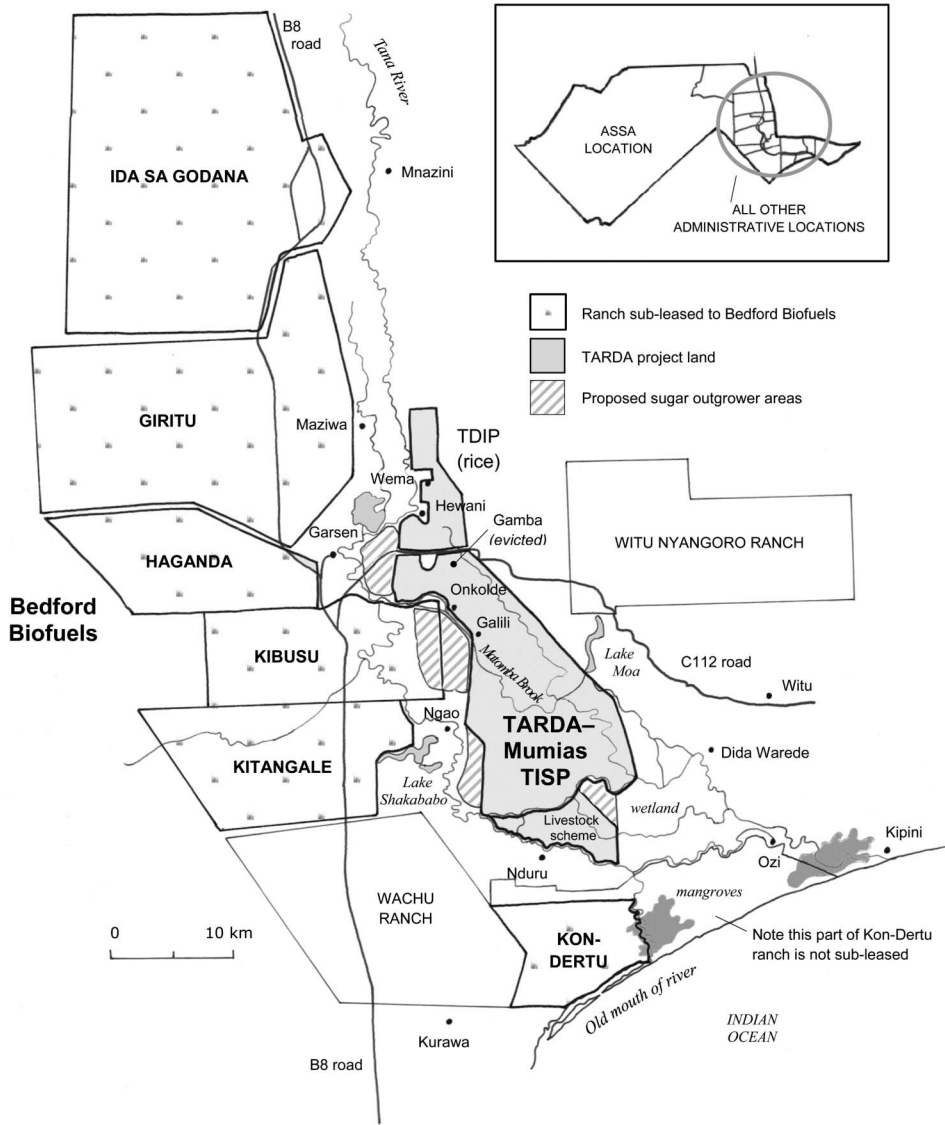


Figure 2. Project areas and position in Tana Delta District (inset).

groups who are apparently beginning to mobilise against Bedford Biofuels. It was difficult to obtain written information given the secretive and sensitive nature of the deals, but a number of secondary data sources, particularly policy and project documents and newspaper reports, were consulted.

At the local level, ESAs and maps suggest there are at least 40 villages and settlements on or near the targeted project land. Of these, eight were selected for interviewing. To preserve anonymity the villages are not identified here, but their ethnic affiliation and location are shown in Table 2. Forty-eight interviews with villagers and another seven interviews with members and officials of Ida sa Godana, Kitangale and Witu Nyangoro ranches were conducted. Respondents were invited to participate through random, quota sampling to capture the views

Table 1. The two land deals.

| | TARDA–Mumias Sugar (TISP) | Bedford Biofuels |
|-------------------------|--|--|
| Proponent's nationality | Domestic (Kenyan) | Foreign (Canadian) |
| Crop | Sugar (food and biofuel) | <i>Jatropha</i> (biofuel) |
| Size | 33,000 ha | 64,000 ha (total acquired: 93,337 ha) |
| Farm model | Plantation (16,000 ha), on-site processing, small-scale outgrowing (4000 ha) in future, livestock | Six plantations, nearby processing, small-scale outgrowing in future |
| Type of land | Mostly floodplain grassland | Mostly arid rangeland |
| Irrigation | Irrigation needed | No irrigation planned |
| EIA status | ESIA partly approved July 2008 | ESIA partly approved May 2011 |

Table 2. Villages and people interviewed.

| Village number | Dominant ethnic group | Location/characteristics | Number of people interviewed |
|----------------|-----------------------|--|------------------------------------|
| 1 | Luo/Luhya and Orma | On or near TISP land | 13 |
| 2 | Orma | On or near TISP land | 14 |
| 3 | Pokomo | On or near TISP <i>and</i> on or near Kitangale Ranch | 13 |
| 4 | Pokomo | On or near Kibusu Ranch | 6 |
| 5 | Orma/Wardei | Herders who graze on project land | 14 |
| 6 | Pokomo | On or near Ida sa Godana Ranch | 15 |
| 7 | Wardei | On or near Ida sa Godana Ranch | 9 |
| 8 | Wardei | On or near Ida sa Godana Ranch | 5 |

of men, women, elders and youth. Interviews at the local level were semi-structured and mostly one-on-one, though some were group interviews. Some questions about livelihoods and land use were clarified with transect walks and participatory mapping. Many of the respondents feared eviction and, furthermore, the land deals had become political and there were reports of intimidation on all sides. Therefore, although interviews were carried out under guarantee of anonymity, this is likely to have affected people's openness, and the research findings should be treated with caution.

4. Encountering resistance, engendering support: how land deals were made or broken

4.1. The local response

The interviews support the message from secondary data of widespread resistance to the TISP. The local opposition has linked to political and environmental movements in 'resistance coalitions' that have made it difficult for the TISP to progress. In contrast, Bedford Biofuels' proposal has been received more warmly. Our interviews recorded broad support at villages 3, 4 and 5, although a handful of respondents

there expressed wariness over *Jatropha* and the deal's transparency. Others at villages 5, 6 and 7, along with local activists, oppose it.

The main discursive positions that affect local opinion on the TISP and Bedford Biofuels deals are shown in Table 3. Only one location, village 5, had a mixture of opinions for or against. Elsewhere, villagers were united, even if they varied in their reasons. Interviews revealed heterogeneity in respondents' livelihoods, education levels and life-worlds. But on the issue of the two deals, there is no significant divergence along gender, age or class lines. The limitations of small samples notwithstanding, this might suggest villagers' discursive positions are shaped collectively.

In what follows we present our findings structured around the four key differences between the two deals that explain the dynamics of opposition and support in Tana Delta: differences in the underlying tenure system, in the investors' reputation, in the perceived value of the targeted land and in the extent to which local concerns have been able to coalesce into activism.

4.2. The de jure setting

The status of land tenure in Tana Delta is complex and unclear. As is common in postcolonial countries, land relations are characterised by institutional pluralism involving overlapping – and contested – statutory and customary claims (Sikor and Lund 2009).

Officially, land in Kenya was, until a change to the national Constitution in 2010, categorised as either trust land, government land or private land.⁴ Trust land was so named because the land was held 'in trust' by local county councils on behalf of its residents, allowing for collective, customary tenure. Government land, vested in the Kenyatta government after Independence in 1964, included townships, forests and national parks but also unalienated agricultural land (Owiro 2000, Kenya Land Alliance 2002). Land could become private through a process of adjudication introduced by the colonial authorities in 1954, whereby Kenyans were encouraged to register surveyed plots and receive individual freehold title (Thurston 1987). Although most of the intensively farmed Central and Western provinces have been subdivided and privatised in this way (Ministry of Lands 2009, Syagga and Mwenda 2010), adjudication has been slow in other parts of the country (Kanyinga 1998). In Tana Delta, attempts to demarcate and register land are reported to have triggered conflict between farmers and pastoralists in 2001–2002, and the adjudication programme was suspended (Global IDP 2004). Today only 4.3 percent of farmers in the district have title deeds for their farm plots or *shambas* (RoK 2009). Several respondents said they applied for title years ago and are still waiting.

In addition to this process of registration for everyday Kenyans, parts of trust land and government land could be acquired – or 'set apart' – through the authorities for public or private purposes. Although there were checks in the legislation designed to protect the public interest (Owiro 2000), Kenya's postcolonial tenure system failed to safeguard community land and valuable ecosystems, and there was systematic divestiture of public land to wealthy individuals via parastatals and land-buying companies (Klopp 2000, Lukudu *et al.* 2000, Southall 2005,

⁴The new categories in the 2010 Constitution are community land, public land and private land.

Table 3. Discourses of local support and resistance.

| Proposal | Reasoning behind support (✓) or opposition (×) | Village ^a | | | | | | |
|-------------------------|---|---|-----------------------|---------------------------------|---------------------------------|--|---------------------------------|-----------------------------------|
| | | 1 Orma, Luo/Luhya Agropast, fishing | 2 Orma Agropast | 3 Lower Pokomo Farming | 4 Lower Pokomo Farming | 5 Orma, Wardei Agropast, broking | 6 Upper Pokomo Farming | 7 Wardei Agropast, trade |
| TISP | <i>Reasons to oppose</i> | | | | | | | |
| | Belief in need for delta to remain grazing | × | × | — | — | × | — | × |
| | Community claim to delta | × | × | — | — | — | — | — |
| | Fear of eviction or lost access | × | × | — | — | — | — | — |
| | Vision of development through self-employed farming | × | × | — | — | — | — | — |
| | Resentment towards TARDA | × | × | — | — | × | — | × |
| | <i>Reasons to support</i> | | | | | | | |
| | Antipathy towards pastoralists | — | — | ✓ | — | — | — | — |
| | Vision of development through jobs | — | — | ✓ | — | — | — | — |
| | Desire for agricultural development projects | — | — | ✓ | — | — | — | — |
| Bedford Biofuels | <i>Reasons to oppose</i> | | | | | | | |
| | Belief in need for ranch to remain grazing | — | — | — | — | × | — | × |
| | Community claim to ranch land | — | — | — | — | × | × | × |
| | Fear of eviction or lost access | — | — | — | — | — | × | × |
| | Resentment towards ranch | — | — | — | — | — | × | × |
| | <i>Reasons to support</i> | | | | | | | |
| | Vision of development through jobs | — | — | ✓ | ✓ | ✓ | — | — |
| | Desire for agricultural development projects | — | — | ✓ | ✓ | — | — | — |

— deal not discussed in interviews

^aRespondents at Village 8 requested not to comment on specific deals

Kanyinga *et al.* 2008). Authorities helped create a culture of patronage whereby land became a tool of securing political support, while customary residents legally became squatters.

At the time of the 2010 Constitution, approximately 70 percent of Tana Delta District was government land, versus 20 percent of trust land (RoK 2009, see also Ogolla 1996, 86, fig. 2). The precise tenure categories of the land acquired by TARDA–Mumias and Bedford Biofuels are unclear. We did not see the land deeds, and secondary sources give conflicting information, reflecting the lack of transparency in Kenya’s land system (Ogolla 1996). Some accounts suggest the TISP area was trust land (Kithi 2004, Glenday 2005, Nature Kenya 2008, Omondi 2008). Others, including the TISP ESIA, report that it includes government land also. When asked, respondents living near the TISP area in villages 2 and 3 said they believed their *shambas* were located on trust or ‘reserve’ land.⁵ The ranches that Bedford Biofuels has sub-leased were apparently located on government land (ILCA 1979, 97, NES 1985, 45, Little 1987), although the ESIA defines it as trust land. Eriksen *et al.* (1996, 217) write that when one of the ranches, Kon-Dertu, was registered, ‘the fact as to whether the land was public (government-owned) or trust land was never clearly established’.

The process by which TARDA acquired its land in Tana Delta, be it government or trust, was long and protracted. Following an informal grant by the authorities in the 1970s, TARDA received an official letter of allotment for 28,680 ha in 1995 (Glenday 2005, HVA International and MA Consulting 2007). This grants the potential landowner leasehold title, providing they comply with certain conditions and fees. According to the ESIA, TARDA was also instructed to compensate displaced ‘squatters’. Letters of allotment are valid within a certain period, usually 30 days and in this case three months (Lebrun *et al.* 2010). However, TARDA was not awarded title until 2009. Opponents therefore claim that its 45-year lease is void. They argue the land was, or should be, trust land and should not have been alienated for commercial development (KWF 2005, Kweyu 2008). Bedford Biofuels, meanwhile, is in the process of acquiring title for its ranches that lack the paperwork.

Thus, the inefficiencies and abuses of Kenya’s land system have created an environment in which it is possible, and even accepted, for developments to involve improper acquisition of land or to infringe on people’s customary rights. The ease with which trust or government land could be set apart for parastatals and ranches laid the foundations for the current deals in Tana Delta. It also fostered resentment among local land users, affecting TARDA in particular, as we explain below.

4.3. Livelihoods and contested tenure rights

Both of the Tana Delta ESIA’s recognise that parts of the newly acquired land are already put to small-scale use by communities with a stake in the area’s future development. The diversity of livelihoods in Tana Delta means that people rely on a range of natural resources. In addition to fishing grounds, *shambas*, pasture and forest, water sources are crucial. During the year, livestock is moved through the landscape to find pasture and water. The ranches and TISP land are both used by

⁵Native reserves’ were one of the land categories amalgamated under the 1963 Trust Lands Act.

residents and visitors, mostly for grazing, fishing and charcoal burning. This complex pattern of land use is managed by customary arrangements, since so few people have private land rights. The customary Pokomo system of patrilineal inheritance of *shambas* has evolved to allow unofficial buying and selling of *shambas* outside the family and inheritance by daughters. Among Orma and Wardei, land is not owned or inherited. Rather, 'bylaws' are used to allocate grazing areas, farming areas and water rights. Wooded areas where people harvest timber and firewood are open access, though communities sometimes claim ownership. The few private claims to land are made by TARDA and the ranches, plus government irrigation schemes and individual investors.

The co-existence of customary and legal forms of ownership has led to overlapping legitimacy claims. *De jure* ownership of alienated government and trust land is not necessarily respected, for three reasons. First, customary claims are viewed as a legitimate alternative. Second, many people are not aware of the boundaries of private land, and trespass accidentally. Respondents at village 2, for example, said the boundaries of TARDA's property are not clearly marked; one man relies on a neighbour who has documents and knows where the beacons are. Third, some users believe private land was acquired illegally, and rightfully belongs to their community. When asked why his community did not pay rent to ranch owners for the use of ranch land, a respondent from another village said, 'Why should we pay? They're not the government.' The ambiguity of *de jure* claims stems partly from the practice in Kenya of awarding landowners a provisional letter of allotment separately from registered title. In practice many land acquirers, including until recently TARDA and several ranches, have only the letter yet still claim ownership. This leads to bureaucratic confusion, encourages double allotment of the same plot and undermines the official tenure system.

Among informal, *de facto* systems there are also multiple claims of legitimacy. This stems from, firstly, the presence of several ethnic groups with various institutional norms for land use – Tana Delta is one of the most ethnically heterogeneous districts in Kenya (Kimenyi and Ndungu 2005, see Section 3.1 above). There is obvious overlap, for example, between individual Pokomo *shamba* ownership and the commons system of Orma and Wardei. Contested areas include land adjacent to the river: traditional Pokomo territory which is also used for watering livestock (Miller 1981, Hughes 1987, Irungu 2000). There are also differences within ethnic groups. One elder explained that the Lower Pokomo are more concerned with jobs and education than Upper Pokomo villagers, a stereotype that might nevertheless help explain the differences between village 6 and villages 3 and 4 (see Table 3).

Secondly, both farming and pastoralist groups claim ancestral links to the area. Long-term residents contrast this indigeneity with the apparently weaker rights of more recent settlers, who, nevertheless, might in turn claim legitimacy if they were given permission to settle by village elders. In Tana Delta, land relations are dynamic and have changed over time. Decades of movement, transhumance and in-migration, as well as changes in economic livelihoods and the riverine landscape itself, have continuously opened up new spaces for negotiation of access to land, water and associated resources by various indigenous and incoming groups.⁶ During the 1970–80s, the government created

⁶For a historical review see Miller 1981.

several settlement schemes for incoming workers in neighbouring areas (ILCA 1979, RoK 1989, ILO 2000). Near the village of Dida Waride, we visited a scheme reportedly launched by Mwai Kibaki during his 2007 Presidential election campaign, whereby participants paid a fee for a plot with title deed. Respondents told us the scheme attracted Luo and Kikuyu settlers from western Kenya. But in general we came across more instances of self-organised in-migrants who were motivated by economic opportunity or climate shocks, such as Giriama smallholders or the fishers at village 1.

To respond to perceived pressure on resources, one Pokomo respondent mentioned the establishment of new villages to protect 'ancestral' land – a strategy of territorialism (Sikor and Lund 2009). In another form of asserting access, several Pokomo respondents described Orma and Wardei neighbours as Cushites or *wageni* (strangers or guests), discursively framing them as newcomers with weaker claims to land. Although ethnicity is only one possible dimension of differentiation (Peters 2004), it does appear to be a factor that can ease or obstruct access in Tana Delta. Some Orma respondents reported a sense of kinship with Somali and Wardei, for example, which obliges them to share grazing grounds and offer a temporary home. The ranches offer membership of a different kind, as we will discuss below, while membership of government- and donor-led irrigation schemes can provide a villager with a *shamba*, pumped water and access to extension services. Evidently Ribot and Peluso's access mechanisms of social relations and identity are in play in Tana Delta.

Acknowledging such diversity and understanding complex processes of land access is important for the land deals. On the one hand, it means that investors do not face a single polity with unified interests, and can benefit from tensions between user groups. On the other, managing and compensating messy grievances over land presents a costly complication for investors (Poulton *et al.* 2008, McCarthy and Cramb 2009). We have seen that, without official rights, communities on government and trust land have historically been vulnerable to dispossession and displacement in a culture of land grabbing by the political elite. However, the very persistence of customary tenure systems in Tana Delta *in the absence of private ownership* has created a legal platform for resistance. Since the customary claims are cultural institutions, it can be argued that they take precedence over more recent *de jure* claims and should be upheld as an indigenous or human right.

Thus, the strength of customary claims and lack of respect for official ownership provide scope for both deals to be opposed. Nonetheless, differences in the underlying tenure system help explain the contrasting approaches taken by TARDA–Mumias and Bedford Biofuels, and why their proposals have not been responded to in the same way. Although the TISP area has been private land unofficially since TARDA was granted the land in the 1970s and officially since it received title in 2009, the land has not yet been developed and has been *de facto* operating as commons. The TISP proposal could therefore be considered a form of enclosure, involving a physical and symbolic wrenching of land away from community users. This is one of the reasons why we encountered strong resistance to the project among fishing and agro-pastoralist villagers who live on or near TARDA property. A Wardei respondent from village 7 claimed, 'TARDA got our elders to sign away land for sugar, and because the elders were illiterate they just signed with their thumbprint.' Pokomo villagers have also opposed enclosure: in

1994, members of Salama location in the TDIP area filed a civil case to protest against TARDA's allocation of land (Lebrun 2009). In contrast, the ranches subleased by Bedford Biofuels were already private land and, significantly, they are owned by local people who constitute the ranch management and membership. Consequently, the *Jatropha* deal is generally perceived not as a land grab but as an agreement or transfer of legal ownership. A respondent from village 1 near the TISP area told us, 'We want to be able to negotiate with developers like they did with the *Jatropha*'. This support for the deal can be explained in the light of the ranches' history.

4.4. Ranches: the incentive to sell

The policy of establishing livestock ranches in Kenya's ASALs emerged in the 1960s, influenced by ideas on range management from the United States (Von Kaufmann 1976, Umar 1997) and the perception that pastoralism is an underproductive activity (Eriksen and Lind 2009). The hope was to sedentise nomads and commercialise subsistence pastoralism, thereby making pastoralists 'economy-minded' (Abercrombie 1974, 13). The best known are the group ranches established by Maasai, Samburu and others (Rutten 1992). In this model, groups would come together under the Land (Group Representatives) Act and register an area of trust land for keeping livestock, as a compromise between traditional grazing systems and the policy imperatives of increasing productivity, avoiding overgrazing and introducing private property (Simpson 1973, Lenaola *et al.* 1996). Other ranching models were designed for different tenure situations and ethnic groups who were thought to be more entrepreneurial (see Ominde 1971, Abercrombie 1974). Relevant to our case study are company ranches and cooperative ranches. The former bought or leased government or trust land, running the business with capital provided by shareholders. A modified form known as Directed Agricultural Companies was designed with the presence of a ranch manager from the government, and these DAC ranches were similar to cooperative ranches, in which members paid share capital to join a ranch cooperative, run by a management committee and, typically, a hired ranch manager (Simpson 1973).

Despite their lack of experience in livestock management, Pokomo communities were encouraged to form cooperative or company ranches in Tana Delta, as were local Orma. By 1978, ranches flanked the west bank of the Tana, including five of those acquired by Bedford Biofuels (the sixth, Kibusu, was founded in 1990). In contrast with group ranches, participants did not live on site but contributed livestock as their share to be managed by a small number of staff. The government's objective for Lower Tana ranches was 'to organise the pastoralists into groups and then settle them' (NES 1985, 46). Locally, however, the rationale was to acquire or safeguard land. Respondents recall that land at that time was threatened by appropriation by bandits, politicians and land-buying companies and, in the case of Kon-Dertu, by plans for a wildlife reserve (interview, LTDCT, 3 September 2011).⁷ Interviews suggest that communities therefore identified ranches as a possible means

⁷In this paper we use the term 'interview' in brackets for data obtained through face-to-face conversations, while we use the term 'personal communication' for commentaries made by interviewees via email.

of exclusion, encouraged in some cases by their Member of Parliament (MP) who urged them not to become 'squatters on your own land' (interview, Chair of ranch forum, 22 July 2011). In the words of a Kitangale ranch member, 'idle land is not yours until you develop something'.

As commercial enterprises, the Tana Delta ranches have not succeeded and only Ida sa Godana, a cooperative ranch, is considered active today. Respondents attribute this failure to a combination of under-investment, mismanagement and corruption, environmental problems and cattle rustling. Though some ranches received state loans, others lacked the necessary paperwork. Again, Kenya's complex tenure system caused difficulties: there were delays in receiving letters of allotment and thereby title deeds (NES 1985, Little 1987). Giritu ranch was able to secure its letter of allotment in 1975, but four years later, an observer wrote that 'no development loan has been granted because the members' equity contributions are insufficient and because a Letter of Allotment . . . cannot be used as security' (ILCA 1979, 97). Livestock ranching is highly capital-intensive (Von Kaufmann 1976), and funds to maintain cattle dips and other equipment dried up. This was exacerbated by the lack of market linkages and rural infrastructure needed to support commercial livestock production (KLMC, personal communication, received 25 September 2011). Furthermore, a hiring freeze at the Ministry of Livestock was introduced through structural adjustment in the 1990s, limiting the support available to ranches through extension (interview, MoL, 24 August 2011). Some members suspect funds were embezzled by ranch elites, or that the illiteracy of Orma owners, in particular, was exploited by government officials. Aside from these managerial and economic challenges, livestock was lost to disease, flooding and drought (EcoSystems Ltd 1985). Officials at Kitangale and Witu Nyangoro say bandits stole hundreds of cattle (ranches are not fenced). These findings chime with evidence in other areas of the country, where ranches failed to suit pastoralists' norms of land and cattle ownership, or the strategies of transhumance and large herd sizes developed by pastoralists to cope with Kenya's variable climate and pasture ecosystems (Ensminger and Rutten 1991, Mutiso 1995).

The decline of the Tana Delta ranches has given ranch owners a strong motivation to sub-lease the land to Bedford Biofuels. Firstly, the ranches fell into debt over land rates and other obligations. Bedford Biofuels offered to clear these and has apparently paid each ranch Ksh 2 million (USD 20,000) in rent. Secondly, as activity on the ranches ceased, farmers and seasonal herders who were not members began to use the land more heavily. Their *de facto* and illegal access mechanisms – squatting, trespass and the threat of violence – have proved more effective than the ranch owners' *de jure* ownership, and the ranches need to find a new purpose for the land in order to protect it. Thirdly, owners worried that because the ranches were dormant they could be classed as idle land and repossessed by the government. Owners were not sure that their 45-year leases would be renewed, even if they had the funds. In the absence of alternative investment offers, they decided to sign with Bedford Biofuels. At nearby Witu Nyangoro ranch, shareholders were able to turn down Bedford Biofuels partly because they had negotiated a more favourable deal with another investor (interview, ranch official, 17 July 2011).

In sum, despite both project areas having been privately owned by TARDA or the ranches for some years, people have continued to use the land as if it were trust land, following customary or *ad hoc* arrangements. But whereas the existence of *de facto* claims to TARDA's land is impeding the sugar deal's

progress, the inability of the ranches to repel *de facto* claims to their land is creating motivation for the *Jatropha* deal to go ahead. Some of those claims are made by local residents who maintain that ranches were located on existing pasture or village land, leading in at least one case to forceful eviction (interview, Pokomo elder, 27 July 2011). Among our interview sample, such claims were made at villages 6 and 7 near Ida sa Godana ranch and by the LTDCT at Kon-Dertu. In addition, the requirement to pay a membership fee excluded the poorest community members from joining ranches, and there were also limits to the number of members allowed so as to avoid overstocking. The establishment of the ranches, then, has created some local resentment among people who contest access or see the ranches themselves as a form of enclosure.

4.5. Consultation, promises and dealing with dissent

Like Mali, Mozambique and several other African countries, Kenya requires project proponents to undertake public consultations, which typically provide an opportunity for affected groups to voice concerns but also for community elites to disproportionately benefit from discussions (Cotula *et al.* 2011). The issue of consultation was mentioned in 37 of our 48 village interviews (involving 59 people), and about a third of the respondents said they had attended public meetings or consultations regarding one of the deals, although they did not necessarily feel adequately informed. A slightly larger group did not attend any meetings and heard about the deals through neighbours, elders or the village chief, but for the remaining third it was not clear to what extent they had been consulted, and our findings are not conclusive on this point.

Consultations for the deals were undertaken by the developers, and by ESIA teams and NEMA as part of the mandatory impact assessments. Judged against best practice (Bisset 2000, Vermeulen and Cotula 2010a), there seem to have been some flaws in both consultation processes. Large public meetings were held, which was apparently not the best forum for imparting detailed information (judging by respondents' poor knowledge of *Jatropha* and how outgrower schemes work, for example) or eliciting opinions from women, who are not used to speaking out in public (A Rocha 2011). There are allegations from interview respondents and conservationists (EAWLS 2008, RSPB 2011c) of people being hired to give support at meetings, and of village elders being bribed to endorse deals. Both projects promise local employment; several respondents said they were told that the Bedford Biofuels project will generate 10,000–15,000 jobs. However, most large-scale land deals create less employment than promised (Franco *et al.* 2010, Li 2011, World Bank 2011) and jobs tend to be 'unskilled, short-term and small in number relative to the size of the investment' (Cotula and Vermuelen 2011, 45).

As a form of enclosure, the TARDA–Mumias proposal (and its earlier incarnations) did not need to be negotiated with locals. Pastoralist spokespeople who oppose the project claimed communities were not consulted, as did NEMA (Kithi 2005, Opala 2006). However, it is not accurate to say that residents were ignored entirely. In the early stages TARDA attempted to bring pastoralists on board and dampen opposition by convening talks and carrying out a process of sensitisation (Anyanzwa 2004, Ndunda 2004, Mango 2005). The sense that the project was treated as a foregone conclusion during these consultations is encapsulated in this quotation from the former managing director of TARDA:

'We shall not force the proposed sugar project on Tana River people, but we will hold consultations with all those concerned before we go ahead' (Daily Nation 2004).⁸ In 2007 and 2008, with Mumias Sugar now on board and pastoralists remaining unconvinced, the number of public hearings about the sugar project increased in a new wave of sensitisation-*cum*-consultation, partly carried out by NEMA and the ESIA team (The Standard 2007, Ringa 2008). The government revised the shareholding structure of the venture to give locals a larger stake, and the TISP's livestock component was another attempt to placate pastoralists (Henry 2008). Unfortunately for TARDA, its chances of winning local support were always threatened by its association with corrupt government and previous top-down development projects such as the TDIP. These are perceived to have taken grazing and farming land and disrupted the natural flooding regime. According to the KLMC representative, pastoralists are automatically hostile as a result: 'You see, anything associated with TARDA is opposed because of past historical injustice TARDA did to the livestock community on acquisition of grazing land and displacement of people' (personal communication, received 25 September 2011). The low wages reportedly paid to TDIP labourers, meanwhile, do not make the promise of jobs on the sugar plantation an attractive proposition either, and several respondents believe they lack the necessary certification for employment.

Whereas TARDA was granted its land from the government, Bedford Biofuels needed to secure leases for the ranches from local owners, and consequently it was obliged to consult and negotiate with local authorities and ranch officials (i.e. the chairman, treasurer and other officials of the six ranches). Accordingly, the process appears to have been more of a partnership. The ESIA report states that Bedford Biofuels made several concessions, such as leaving 60 percent of the ranches *Jatropha*-free. Its promise to allow herders to graze alongside *Jatropha* for a small fee and to protect livestock routes is a key reason why some respondents in the Orma/Wardei village 5 support the deal. As well as clearing debts, the company pledged millions of dollars for a humanitarian programme called EMPOWER, through which ranch companies can nominate and establish community projects (Bedford Biofuels 2011).

Via negotiations, then, the Bedford Biofuels proposal has been brought closer than the TISP to local people's vision of development. Neither deal fully addresses the livelihood aspirations of the interviewed villagers. The villagers' priorities – for more teachers, better healthcare, credit, facilities for processing fish, mangoes and milk, and, above all, support for small-scale irrigation – are actually already being addressed by government initiatives such as the Arid Lands Resource Management Programme and donors such as the World Food Programme. However, these initiatives lack funding and do not always get off the ground (RoK 2006, 2009). Bedford Biofuels benefits from a widespread narrative of Tana Delta having been neglected by the government and, unlike TARDA, it is not associated with a corrupt political regime.

Bedford Biofuels and the ranches hope the *Jatropha* project will bring community benefits. It is not always clear who is included in this notion of 'community'. Establishing the ranches seems to have created an access hierarchy, with ranch

⁸As another example, in a December 2004 visit to Garsen, President Kibaki is reported to have told resident pastoralists to stop being 'selfish' and that the government had already approved the scheme (Ringa 2004).

officials at the top, followed by ranch members, landless *de facto* rights holders, and recent squatters, in-migrants and transient herders at the bottom. When the ranches were inactive, the officials' *de jure* ownership could be ignored by herders, charcoal-makers and other resource users. But as Sikor and Lund (2009, 6) note, though property rights might not guarantee access they can 'come in handy if circumstances change'. With the arrival of Bedford Biofuels, the ranches can again be used as a means of exclusion. Although some concerns of marginalised users were incorporated into the *Jatropha* deal agreement, other concerns, particularly the potential loss of grazing areas, relocation of squatters and a general lack of information about the project, were recorded by the ESIA team but not regarded as a reason to stop the development (ABF 2010, 117, 104 and 70). However, some of the squatters have the backing of a politician who encouraged them to settle. Meanwhile, Wardei and Pokomo squatters have brought lawsuits against Ida sa Godana ranch and Giriama farmers have written to the Ministry of Lands to protest against Kibusu ranch being established without their knowledge (Aluanga 2011). Since Bedford Biofuels' strategy involves development in phases, ranch by ranch, its response to opposition can be more flexible than the TISP. An elder at village 6 believes Bedford Biofuels has postponed its interest in Ida sa Godana, while the LTDCT have been told that *Jatropha* will not be grown at Kon-Dertu, something we could not confirm with the company.

Finally, it is worth noting that some respondents from higher up the hierarchy – ranch members and others from nearby, well-established villages – said they felt involved in the deal discussions. According to one member, in the case of Ida sa Godana, members gathered, discussed the company and decided to accept the deal. 'When the ranch was formed,' he said, 'the elders were illiterate. But now new shareholders, and those who have inherited shares from their parents, are learned and are not being exploited.' But not all of the nine ranch members interviewed were supportive of, interested in or even aware of the deal. A more critical Ida sa Godana member cast doubt on *Jatropha's* viability and the ranch leadership. Ultimately, it is the ranch elite who have decision-making power. They established a forum committee to deal with Bedford Biofuels as a single executive representing all six ranches, and were able to override misgivings from ranch members and other villagers. Some respondents tactfully accept their authority: 'Since the ranch owners accepted [the deal], we the community have no reason to oppose it,' said one Orma elder. Others are outspoken, one pastoralist at village 5 describing the *Jatropha* deal as another example of grazing land being taken 'through pen and paper'. Reports suggest members of Kitangale and Kon-Dertu ranches were openly divided over the project (Ndurya 2009 and interviews), providing tentative evidence for the deal being made without full ranch membership consent. In short, participation in consultations was unlikely to be wholly satisfactory for all local residents. Aware that they do not have perfect information, informants assess the proposals against past experience with the owners and with previous development projects, through the lens of their own social status and land-use related interests.

4.6. The value of the land

So far we have argued that differences in how the land was acquired and in the reputation of the project proponents have influenced the design and progress of the two deals. A third difference is how the project land is valued economically and

culturally. The land targeted by TARDA–Mumias plays a key role in the regional pastoralist economy. During the dry season, livestock from local villages is taken into the area to graze, where it is joined by animals trekked or trucked into the delta to be fed until the grassland floods and they are strong enough to return to the hinterland. The TISP ESIA estimated that 60,000 cattle are grazed in the delta, of which 4500–8000 live permanently on or near TISP land. During the 2011 drought animals came from as far as Masarbit (Figure 3). Garsen has a weekly livestock market that draws buyers and sellers from neighbouring districts. Farming and fishing also take place in the project area, and natural flooding is relied upon downstream. Widespread resistance suggests that TARDA and Mumias Sugar have underestimated the delta’s importance to local people, as have the government planners that have encouraged its conversion to crop agriculture. Villagers and herders maintain that pasture is already becoming scarce through overgrazing by

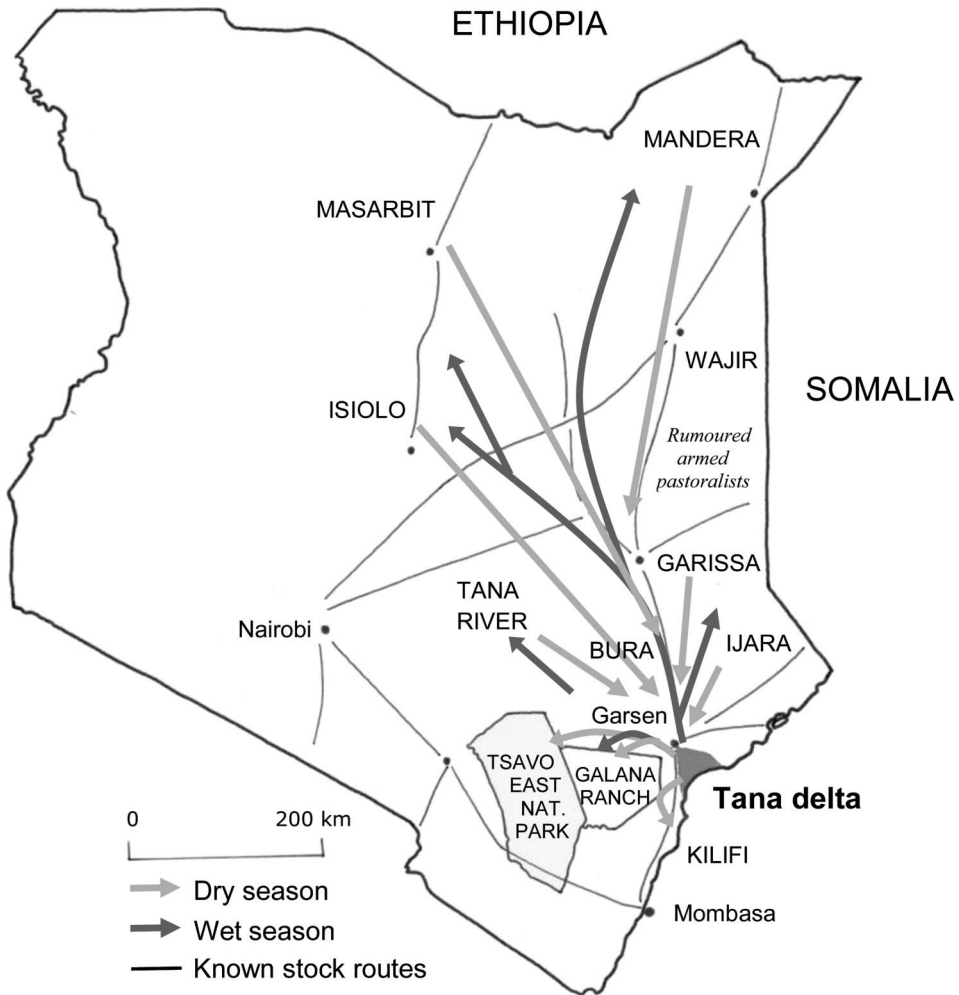


Figure 3. Stylised representation of seasonal livestock influx into the delta, superimposed over stock routes (compiled from Ominde 1971, Muthee 2006, Mahmoud 2010).

outsiders, conversion to irrigation schemes and a drying of the climate that they attribute to deforestation and changes in rain and river flooding patterns. Repeatedly, respondents asked, 'Where will the animals go?' The delta also has symbolic value as a haven. Fisherfolk have moved from Lake Victoria in western Kenya to fish the oxbow lakes, and several Orma and Wardei respondents described moving to the area to escape flooding and drought elsewhere. Initially, the government suggested that part of Galana Ranch to the west could be set aside for pastoralists to use instead of the delta in dry season. Pastoralist villagers and the Witu Nyangoro ranch official told us that some herders do take their livestock to Galana during the short rains (Figure 3). But pastoralist spokesmen rejected the idea as completely unsuitable for dry-season grazing (Kweyu 2008, Nyassy 2008). One group of Orma women we interviewed pointed out ironically that they could not benefit from the much-promised jobs from the sugar project if they relocated to Galana.

Some agropastoralists have another argument against the TISP. Instead of plantation agriculture, they say, people should be assisted in acquiring title and expanding their own *shambas*. This alternative argument could indicate a class and/or generational divide within Orma society, as it was put forward by agropastoralists who rely on farming and are seen as poorer than pastoralists with large herds, and by some young men who expressed disaffection with the pastoralist way of life, their views (or 'life-worlds') having been shaped by personal experience of cattle being washed away during El Niño floods. However, the two positions are complementary, and both result in rejection of the TISP proposal.

The only discursive position in favour of the TISP during interviews was found in Pokomo villages 3 and 4. Respondents here hoped agricultural investment would stimulate development and employment. 'We welcome new ideas if they'll help us move on,' one Pokomo elder said. These residents planned to keep their *shambas* even if they worked on the TISP scheme, thus trying to avoid a depeasantisation process (Van der Ploeg 2010). The villagers do not currently use TISP land and have little sympathy for pastoralists losing access to pasture. This has to do with experiences of the conflict between Pokomos and Orma nearby in 2001–2002. One woman said she had been too intimidated to return to her *shamba* since that time. It was also maintained that Orma had redirected the flow of the river near Matomba Brook, causing a water crisis in the villages (see IRIN 2008). The reduced flow and a lack of rain are blamed for poor harvests in recent years, meaning that farmers can typically grow only enough produce for subsistence. This has slowed the circulation of money in the local economy and increased reliance on food aid. The prospect of employment on the TISP plantation and outgrower scheme offered a solution, and there is frustration that pastoralists have stalled progress. Indeed, it does appear that the practical and symbolic importance of the delta has so far outweighed these villagers' preference for development.

As a more arid environment, the ranches (aside from Kon-Dertu) do not seem to be as valuable to pastoralists and fisherfolk in the sense of a haven or home. Livestock is regularly moved through ranches to and from the hinterland (the Bedford Biofuels ESIA estimates 30,000 cattle graze across the entire project area in peak season). But there are few farming villages on ranches owing to the distance from the floodplain and river. This compounds the message in the ESIA that the land is under-utilised yet overgrazed, and helps justify its conversion to *Jatropha*. There are no comparable villages to the cultural lodestones of Ngao (Pokomo) or

Dida Warede (Orma), which are located in the delta. Although many people – technically squatters – do call the ranch land home, their presence has not slowed the progress of the *Jatropha* proposal. In some cases their needs have been accommodated in the project design via Bedford Biofuels' consultations. Others are marginalised at the bottom of the ranch stakeholder hierarchy. We found little evidence for organised opposition of the Bedford Biofuels deal among squatters, suggesting that grievances are piecemeal and lack the coherent storyline of dispossession through enclosure that unites people who resist the TISP. The more dominant voice comes from longer established villages with connections to the ranches, where Bedford Biofuels and its promised jobs are eagerly awaited.

In considering the varied local response to the two deals, then, it is useful to take a historical perspective. The threat of eviction or losing access to valuable land is a fairly immediate concern. Yet discursive positions for or against the deals are also shaped by the sense of solidarity with neighbours, the perceived threat from outsiders, past grievances and exposure to earlier development schemes.

4.7. Politics and activism

One of the factors that have affected the progress of the TISP has been the nature of its business model as a public–private joint venture. In 2006, the project was halted by a lawsuit brought against TARDA and Mumias by TARDA's previous partner MAT International (Kenya Law Reports 2006). On winning the case, Mumias faced the challenge of raising USD 400 million (Mugambi 2009) and it is not clear if it will have the funds to take the TISP forward. However, a greater cause of delay has been the emergence of resistance coalitions that have counteracted voices of support.

The discursive position of the villagers who support the TISP closely matches that of the government. Seeing ASALs as an overflow for farming, the belief in poverty reduction through commercial agriculture and a determination to bring irrigation to Tana Delta are all visible in Kenya's Vision 2030 development blueprint (GoK 2008). In May 2011, the Prime Minister reiterated commitment to the TISP, stating that 'areas which are suitable for large-scale agriculture production need to be used for those purposes' (Plenary Hansard 2011, 37). TISP proponents emphasise the conservatism of pastoralists, and Tana Delta residents in general, in order to reframe local resistance as backwardness (see Nyassy 2008, RedOrbit 2008). Despite the force of this rhetoric, local resistance has combined with wider activism to obstruct the TARDA–Mumias vision.

The typical strategies of residents for opposing development in Tana Delta are to refuse to move and threaten violence, write letters to local or national politicians, and protest through the courts. After refusing to evacuate the settlement of Gamba on TDIP land, for example, Wardei residents wrote to the Prime Minister when they were forcibly evicted in 2010 (RSPB 2011a). Residents who oppose the TISP have also used (occasionally violent) protest strategies such as demonstrating with placards and threatening TARDA vehicles, according to interview testimonies and news reports (Ndunda 2004, Ringa 2004, The Standard 2006, Ringa 2008). What is crucial in the TISP case is that the grievances of Orma and Wardei have been aired in public meetings and taken up by a local pastoralist elite with links to the political scene (Muchai 2005, Nyassy 2008). In 2004, a nearby MP and the former MP for Garsen wrote against the proposal in a national

newspaper, questioning TARDA's connections with the government (Wario and Shambaro 2004). During public meetings in 2007 and 2008, pastoralist spokespeople disputed TARDA's land ownership and claimed the right to grow sugar themselves. The TISP was also debated in parliament. The proposal became politicised, and it was in this context that TARDA's original partner, a Spanish firm, exited and NEMA declined to grant TARDA–Mumias a full licence (NEMA 2008; interview, local activist, 26 July 2011).

The TISP was also opposed by Kenyan and international environmentalists, who had been advocating for protection of the delta under the Ramsar Convention on Wetlands. When details of TARDA's sugar proposal emerged in 2004, environmentalists, notably the East African Wild Life Society, immediately objected (KWF 2005). The ESIA process provided an opportunity for opposition via public hearings and position statements, and it was at this time that the international NGOs BirdLife and RSPB became involved. In 2008 Nature Kenya began a campaign of awareness-raising and Ramsar advocacy among villages. The environmentalist narrative is of an ecosystem in peril. It stresses the delta's importance as a habitat for birds, primates and other wildlife. BirdLife International (2010) maintains that 'Tana delta is important not only to Kenya but also to the global community', thereby staking a claim to what happens there (Roe 1995). The environmentalists' way-of-seeing is different from the way local respondents view the delta. Their primary objective is biodiversity conservation (interview, Nature Kenya, 24 August 2011) whereas most villagers perceive wildlife as dangerous pests, constantly threatening crops (baboons, buffalo), livestock (hyenas, lions) and people (hippos, crocodiles). It was only in an interview with the LTDCT, a community organisation that earns money from tourism, that wildlife was described as an asset.

Despite these differences, environmentalists have been able to form a 'discourse coalition' (Hajer 1995) with pastoralist activists and residents who oppose the TISP by combining ecological concerns with social issues. In a 2005 report, for example, Kenya Wetlands Forum argued that local people had an indigenous claim to TARDA land (KWF 2005). The most significant outcomes of this coalition have been two lawsuits brought against TARDA–Mumias.⁹ In the first, a court injunction halted progress on the project from July 2008 to July 2009. The second lawsuit makes more of a human rights argument, based on Kenya's new Constitution (interview, Kituo cha Sheria, 20 September 2011), which aligns it more closely with local opposition discourse. It mirrors the growing concern with land grabbing as an abuse of rural people's rights, which has characterised recent coverage of the Tana Delta deals in the Kenyan media and abroad (FIAN 2010, Aluanga 2011, McVeigh 2011).

The environmentalists' position was able to accommodate the Bedford Biofuels proposal when it emerged in 2009. Indeed, their narrative works best when the delta is perceived to be facing multiple threats. NGOs argue against the viability of *Jatropha* and advocate strategic planning for the whole of Tana Delta (RSPB 2011b). As with their anti-TISP campaigning, they also incorporate social issues; specifically, the threat of eviction mentioned in the Bedford Biofuels ESIA. However, there is no obvious local resistance movement for this to attach to. Since Bedford Biofuels is not associated with the government as TARDA is, the project has not

⁹An earlier example is a group statement made by environmentalists, pastoral groups and a minority rights lawyer in 2005 (Mayoyo 2005).

become politicised to the same degree. Pastoralist rhetoric is weaker because some of the ranch officials that have signed the deal are Orma and grazing will be allowed to continue. Whereas the environmentalists' plea to save the delta for biodiversity conservation complements the local desire to save the delta for farming, grazing and fishing, several respondents believe that the campaigning by NGOs such as Nature Kenya against the *Jatropha* project is spoiling Tana Delta's chance for development. Several respondents, including ranch officials and two interviewees from the otherwise supportive Pokomo villages 3 and 4, were wary of *Jatropha* (in two cases because they had seen crops fail). However, as we have argued above, apparently this has not led to wide-scale questioning of the project, owing to a lack of information, the decision-making power of the ranches and the overriding desire for jobs. Furthermore, there is no unified opposition to Bedford Biofuels from squatters and other threatened resource users across the six ranches. Tana Delta lacks effective civil society to unify their varied interests. Environmentalists are not best suited to campaigning for land rights, and without civil society support, it is difficult to mobilise resistance. Three male respondents said they lacked power or know-how to oppose development, while the interviewee from Nature Kenya suggested that some residents came together to protest against the *Jatropha* project using legal means, but could not afford the legal fees. The forces of conservationist concern, pastoralist political rhetoric and local unity in the face of state alienation of commons have therefore not combined in the same way when it comes to Bedford Biofuels.

5. Discussion and concluding remarks

The previous section has allowed us to identify a series of access mechanisms that TARDA–Mumias and Bedford Biofuels have used to acquire land (Table 4). They have access to capital, authority and knowledge, which eased their acquisition of legal title through bureaucratic channels. Their discursive strategies are similar, promising jobs, fuel security and modernisation, but Bedford Biofuels' unblemished status as an outside investor and its negotiations with local owners gave it an advantage over the TISP. Illegal mechanisms, such as bribery, have allegedly been employed by some project proponents to support and facilitate claims. We can also consider the mechanisms used by Tana Delta residents to re-gain or defend access to the project land. Under the 'legal' category are their customary claims, as well as lawsuits and court injunctions, the key means of local opposition. They also use illegal mechanisms such as trespass and intimidation. Despite the constraints of illiteracy and economic marginalisation, some residents are able to register opposition with figures in authority. However, others lack the necessary know-how or funds. In fact, limited access to capital, technology and markets has stymied agricultural productivity, and this indirectly encourages the land deals by strengthening the perception that the area needs economic development. In the absence of power and capital, the ability to maintain access via social networks become more important, benefiting local land users with status and connections. Even actors who are relatively powerless may find support from electioneering politicians or conservationists who happen to choose their village for advocacy. On all sides, access is further moderated by aspects of the wider institutional and socio-economic setting, such as the national procedure for ESIA's and the weak rural economy in which local actors are embedded.

Table 4. Key mechanisms and institutions for gaining, maintaining and re-gaining access to land in the deals' early stages (adopted from Ribot and Peluso 2003).

| Mechanisms and <i>wider socio-economic factors</i> (in italics) shaping access to land | | |
|--|--|---|
| Interest group | Weak or constraining | Strong or enabling |
| Local land users (aggregated) | <p>Lack of legal ownership Poor access to capital, technology and markets Limited access to information hinders people's ability to evaluate deals <i>Weak rural economy</i> <i>Policy environment</i></p> | <p>Customary claims Illegal mechanisms and threat of violence Discourse to justify access and weaken competing claims Access to justice system, mediated by access to capital, knowhow and civil society Access to authority (e.g. chiefs, MPs) Social relations with pastoralist elite, conservationists <i>ESIA regulations provided opportunity to negotiate access through hearings and consultations</i> <i>New Constitution strengthens court case against TARDA–Mumias</i> Ability to benefit from the above greatly depends on social identity (e.g. gender, ethnicity, indigeneity, elder status, ranch membership)</p> |
| TARDA–Mumias | <p>Social identity (poor reputation) Poor social relations with political opponents Need to raise capital <i>ESIA regulations have slowed progress, although EIA standards are low</i> <i>New Constitution has created a more sympathetic environment for debating land rights</i> <i>Justice system (court cases)</i></p> | <p>Legal ownership Alleged illicit mechanisms Access to information and expertise Discourse and policy narratives Social identity as 'insider' with state support Social relations in a position of local power <i>Policy environment</i> <i>Land system that historically favours top-down acquisition</i></p> |
| Bedford Biofuels | <p>Social identity as 'outsider' in discussions with authorities and negotiations with ranches <i>ESIA regulations</i> <i>New Constitution</i></p> | <p>Legal ownership Alleged illicit mechanisms Access to capital Access to information and expertise Discourse Social relations (e.g. negotiations with ranches, concessions for local pastoralists) Social identity as 'outsider' distances it from state</p> |
| Ranch owners | <p>Ranches suffered from poor access to capital, technology and markets</p> | <p>Legal ownership Social identity (ethnicity, elite status)</p> |

(continued)

Table 4. (Continued).

| Mechanisms and <i>wider socio-economic factors</i> (in italics) shaping access to land | | |
|--|---|--|
| Interest group | Weak or constraining | Strong or enabling |
| | Imperfect access to information weakens bargaining position Weak social relations with some locals <i>Political pressure to re-develop or sub-lease 'idle' land</i> | Social relations with villagers, Bedford Biofuels, authorities Discourse |
| Conservationists | Lack legal claims Social identity as 'interfering' outsiders | Discourse Access to information and expertise Access to capital through donors Social relations with local people <i>ESIA regulations</i> <i>Justice system</i> |

A useful way to conceptualise the difference between the two deals is Hall's (2011) distinction of 'secure' and 'insecure' tenure conditions. The TISP case is insecure, meaning that the proposal does not fully acknowledge or compensate existing land use. The ranches are secure, meaning that the investor – Bedford Biofuels – must respect the existing ownership. Bedford Biofuels' more collaborative approach, and much of its relative popularity, stems from having to negotiate with existing private owners. This appears to support the argument that providing local users with clearly defined property rights makes it difficult for their presence to be ignored. Certainly, interview respondents expressed strong demand for title deed. However, most large-scale deals target unfarmed commons (Alden Wily 2011), so we are not talking about mass registration of small plots. The kind of property rights that could protect users in this setting is probably formally recognised community access, incorporating multiple land uses – incidentally, this is the aim of the 'community land' category in Kenya's new Constitution. Deininger (2011), however, acknowledges that it is difficult to design community-wide rights systems that represent all stakeholders and prevent elites from benefiting disproportionately. In the case of the ranches analysed here, it appears that their establishment has deepened or formalised access inequalities and given ranch officials a decisive say in who is included in their 'community', even though their efforts to safeguard land may be well intentioned.

Furthermore, the existence of formally recognised property rights can actually speed up land acquisition. As Deininger writes, 'recording rights provides outside investors with somebody to talk to' (236). Bedford Biofuels and other prospective investors have actually helped ranches to acquire paperwork so that land can be traded. Because Bedford needed the leases and licence, ranch officials and others who were consulted were able to extract concessions from the company. Although this may have made the bargaining positions more even, the ranch owners were, in turn, disadvantaged by their need to clear debts, as well as a lack of information about

Jatropha and land prices (interview, ranch member, 31 July 2011). There is, in any case, a leap from acquisition to implementation, and being able to acquire *de jure* rights does not guarantee investors progress, as TARDA and Mumias Sugar have discovered. This is the experience of other large-scale acquisitions in Africa (Poulton *et al.* 2008, Cotula and Vermeulen 2011). Land deals where tenure conditions are insecure can be forced through, but this creates the conditions for widespread resistance because the large number of people that may be affected provides the foundations for collective organisation and response (McCarthy and Cramb 2009, Vermeulen and Cotula 2010b, Hall *et al.* 2011).

Research has suggested that policy discourse facilitates large-scale land acquisition (McCarthy and Cramb 2009, Ariza-Montobbio *et al.* 2010, Mançano Fernandes *et al.* 2010). So it is striking that the TISP deal has stalled despite the policy vision of irrigated sugarcane and the undertone of doomed pastoralism. Perhaps the influence of discourse has been overestimated. Another explanation is that this policy vision is not hegemonic (Adger *et al.* 2001). In 1993, for instance, President Moi intervened to prevent Kon-Dertu being developed for aquaculture and directed that it be protected as a wetland reserve, leaving confusion today over whether the land is legally owned by the thwarted developer, the ranch company or the community, who understood the land to have been returned to them (Eriksen *et al.* 1996; interview, LTDCT, 3 September 2011). Similarly, the 2008–2012 Tana Delta District development plan includes an objective of conserving the lower delta alongside the commitment to sugar irrigation on the floodplain (RoK 2009). Secondly, the policy has met robust counter-movements, as Polanyi termed them, which is not surprising given the threat to access relations that TARDA's proposal involves (Hall *et al.* 2011). On the subject of doomed pastoralism, we found that Tana Delta's pastoralists are closer to the government position than expected. For some Orma and Wardei respondents, livestock has become a liability. Young men can find life as a herder boring and lonely. These pastoralists are open to agriculture – however, they object to the passive role that they have been given in the storyline of modernising development, especially because they already resent TARDA.

People in Tana Delta evaluate narratives for or against the deals by seeing if they fit with their worldviews and interests. To use rhetorical terminology (Hajer 1995), many people have rejected the TISP proposal for lacking *logos* (i.e. a reasonable answer to 'where will the animals go?'), *ethos* (trustworthiness) and *pathos* (empathy with existing land users). TARDA's attempt to override the insecure tenure conditions has failed – so far. Personal history influences people's attitudes towards the deals, and some of these individual opinions escape the simplified discursive position that seems to be shaped by elders and held collectively by villages. To date, critical land grab research has rarely studied this formation of subject-positions and the way they are distilled into counter-narratives (Davies and Harré 1990). Everyone has their own discursive position – what has slowed the TISP is that people have formed coalitions, linking local residents with activists farther afield. This capacity for activism depends on access to information and civil society, and a certain social cohesion between stakeholder groups, as Pye (2010) discovered in his study of resistance against biofuel developments. Bedford Biofuels' project, apparently more just than the TISP, has not been tested by a comparable counter-movement.

To conclude, it is possible to make two more general observations relevant to the land grab debate. The first is that neither deal in this case study is archetypal. One is a domestic affair, originating earlier than the current global land rush. The other is

an acquisition of private ranch land, which, though similar to conversions of ranches in Latin America (CIFOR 2010, Mançano Fernandes *et al.* 2010), is unusual for large-scale land deals in sub-Saharan Africa (Cotula *et al.* 2011). Although the Bedford Biofuels proposal is a better example of a stereotypical neo-colonialist land grab, it has received a warmer reception than the domestic TISP project. As Borrás *et al.* (2010) contend, proposals for large-scale agriculture are not necessarily opposed at the grassroots. Bedford Biofuels conducted more democratic consultations, and made more concessions to local resource needs, than TARDA–Mumias. Rather than being a benevolent alternative to neo-colonialism, domestic investors may be tied more closely to a corrupt political or bureaucratic system, and subject to lower expectations of transparency, than international developers.

Tana Delta itself is a strikingly contested site for large-scale land acquisition. Our study found land at varying stages of privatisation, multiple *de facto* arrangements and remote claims to the land made by conservationists and policy planners. Further work is needed to investigate the relationship between social heterogeneity, tenure complexity and the progress of large-scale land deals. Several authors forecast an increase in inter-community tensions and claims based on ethnicity or indigeneity at times of pressure on land (Peters and Kambewa 2007, Berry 2009, Ndahinda 2011). Divisions along lines of class, ethnicity and indigeneity in Tana Delta have affected people's strategic responses to the deals; however, the responses are complex, and in the latest court case against TARDA–Mumias, residents from diverse livelihoods and ethnicities have united in opposition.

The second observation is that, in Kenya at least, land grabbing is not a recent phenomenon. Indeed, the two current deals in Tana Delta are built upon a political openness to commercial agriculture, a longstanding commitment to monoculture plantations and the easy acquisition of land by elites. Local responses are partly shaped by a resentment of earlier appropriation and by a willingness in certain villages to engage in large-scale farm labour. Whereas foreign researchers and campaigners frame recent events discursively as land grabbing, residents of Tana Delta are able to put the deals in context of what has gone before, culturally, politically and ecologically. Far from being the *tabula rasa* described by project proponents, the landscape can be read, and each person reads it differently. Here is where animals are taken to the hinterland. Here is a dormant ranch. Here is where my father lived before the *Shiftas* came. Here is where the river used to flow. Given the collapse of previous top-down projects that are also imprinted into the landscape, we cannot assume that the two current deals will prosper even if they do go ahead. Tana Delta, and the people that live and work there, have proved to be resilient survivors of projects that don't suit them.

In this paper, we have unveiled the complex and evolving socio-ecological conditions in which the Tana Delta deals have been negotiated, developed or brought to a standstill. Land tenure, social identity and landscape values play a key role in shaping actor responses, both individual and collective, to such deals, and contribute to the articulation of discourses of support and dissent across scales. Our insights may help to explain why so many large-scale agricultural projects are not yet operational. The World Bank surmises that delays are due to 'unrealistic objectives, price changes, and inadequate infrastructure, technology, and institutions' (World Bank 2011, xiv). To this must be added the obstructive role of local opposition that arises if projects are not designed in harmony with land users' priorities and values. Conversely, though Tana Delta residents remain vulnerable to displacement and deprived access, the

challenges of resistance coalitions are chipping away at sedimented policy discourse. NEMA recently withdrew its support for Bedford Biofuels, citing scientific concerns about *Jatropha* (Muchangi 2011). In September 2011, ministry officials, TARDA and other stakeholders agreed on a new 'Tana Delta Planning and SEA Initiative', committing to produce a long-term, sustainable land-use plan for the area by March 2013 (GoK 2011). Overall, these are signs that the 1950s-era received wisdom of top-down development and profligate pastoralists is changing and that, like the Tana River, policy narrative could be redirected to take a new course.

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