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GLOCON Working Paper Series · No. 7 · May 2018

Global Change – Local Conflicts?

Conflicts over land in Latin America and sub-Saharan Africa in times of global transformation

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Abstract

Using case studies drawn from my own and others' research, this working paper describes and compares some of the ways land conflicts reflected, intensified or reshaped struggles over authority within and between families, local communities, institutions and states in post-colonial Africa. In the past, many Africans gained access to land through membership in a social group, rather than freehold ownership. In recent decades, with rising demand for land, urgent questions arose about land tenure and debates over land transactions often turned on issues of authority. Who was entitled to sell, lease, mortgage or bequeath land or land use rights to others, and who could decide? Coinciding with Africans' struggles to work out the conditions of their own self-government following the end of colonial rule, rising competition over land intersected with conflicts over authority and obligation at all levels of social interaction. This essay will focus on processes of 'privatisation from below', asking how smaller-scale commercial acquisitions figure as sources of wealth and/or threats to livelihood in different economic and political contexts.

Zusammenfassung

Das Working Paper beschreibt und vergleicht einige der Formen, wie sich Kämpfe um Autorität in und zwischen Familien, lokalen Gemeinschaften, Institutionen und in Staaten im postkolonialen Afrika in Konflikten um Land widerspiegelten, intensivierten oder veränderten. Dabei beziehe ich mich auf Fallstudien aus meiner eigenen und anderer Forschung. Früher bekamen viele Afrikaner_innen Zugang zu Land eher über die Mitgliedschaft in einer sozialen Gruppe als über individuelles Eigentum. In den letzten Jahrzehnten, mit der wachsenden Nachfrage nach Land, kamen wichtige Fragen in Hinblick auf Landbesitz auf und Debatten über Landtransaktionen widmeten sich zunehmend dem Thema Autorität. Wer war berechtigt Land oder Landrechte zu verkaufen, zu verpachten, zu verpfänden oder zu vererben und wer konnte das entscheiden? Die gleichzeitige Suche nach den Bedingungen einer eigenen Regierungsweise nach Ende der Kolonialherrschaft führte dazu, dass sich die zunehmende Konkurrenz um Land mit Konflikten um Autorität und Zwang auf allen Ebenen der sozialen Interaktion verband. Dieser Artikel betrachtet Prozesse der ‚Privatisierung von unten' und fragt danach, wie kleinere kommerzielle Aneignungen als Basis für Wohlstand und/oder Bedrohung der Lebensgrundlage in verschiedenen ökonomischen und politischen Kontexten fungieren.

Content

1 Introduction

Early denunciations of top-down land 'reform' programmes that many African governments launched in the early 1990s portrayed them as exclusionary, biased against women, youth and poor people, and likely to promote conflict. Advocates of land registration and titling argued that by clarifying and securing land owners' 'rights', titles would promote development, by encouraging land owners to invest in more productive uses of land and/or use their land as collateral in exchange for loans to finance other forms of investment (Feder/Feeny 1991). Critics pointed out that Africans typically gained access to land through their membership in social groups (such as families, clans, villages etc.) rather than freehold ownership. Giving land titles to particular individuals, they argued, would exclude other group members from exercising their claims to the land in question—effectively creating a class of landless subordinates subject to exploitation by newly empowered land 'owners', many of whom were their own relatives (Bassett/Crummey 1993; Amanor 2010). Similar debates focused on the emergence of land markets: advocates said they would stimulate investment while critics deplored the power of land sales to dispossess vulnerable people and undermine the moral economy of African social life (Colin/Woodhouse 2010).

Twenty-five years after the initial wave of donor-backed initiatives to establish legal frameworks for clarifying and securing rights of land ownership, the debates continue but a number of researchers and policy analysts have modified their analyses. Legislation established a framework for defining rights of ownership and allowed those with the means to defend their titles in court to do so. But supporters of these laws admit that enforcing them has sometimes been socially disruptive, and has frequently proved beyond the resources and administrative capacity of state and/or local authorities to carry out (World Bank 2013). Critics argue that the laws have facilitated large transfers of land to foreign corporations and wealthy investors[1]. Far from providing secure titles to those who need it most, such transactions, backed by official certification of buyers' claims, have displaced low income land users and/or reinforced the power of local authorities (chiefs, village heads, family heads, senior men), increased inequality within local communities, and marginalised women, youth and/or 'strangers' vis à vis access to and/or control over land[2] (Peters 2004; Cotula 2009; Borras et al. 2011).

Analysts on both sides of the debate have pointed out, however, that the absence of state-issued land titles has not stopped the commercialisation of land transfers, and may have encouraged investment in land-based assets. As Michael Kevane and Leslie Gray (2001), Timothy Besley (1995) and others have shown, uncertainty about ownership has sometimes *promoted* investment—leading people to dig wells, build houses, create fenced pastures etc. in order to strengthen their claims to the land itself.

Eager to enhance their claims, but wary of state interventions that often displace local land users, land transactors have also engaged in what Jean-Pierre Chauveau and Jean-Philippe Colin (2010) have called "vernacular formalisation"—writing down the terms of a land

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[1] This point is borne out in recent studies by the World Bank (2010) and others who continue to promote titling as a stimulus to economic growth.

[2] Catherine Boone's (2013, 2014) influential writings provide an analytical framework for linking patterns of conflict over rural land to structural variables such as loci of authority (state, district, chiefs, household heads) and rates of immigration.

transaction in the presence of witnesses, and having the document signed or stamped by a chief, headman, or local official. Known in francophone West Africa as *petits papiers*, these documents are not legally enforceable, but they do create a record that may discourage competing claimants or help secure a favourable ruling in case of dispute (Mathieu et al. 2003; Chauveau/Colin 2010; Colin 2017; Hornby et al. 2017).

Others have expanded arguments about 'pluralism' (plural laws, plural claims, plural social relationships) to include relations of authority. Catherine Boone (2013) analyses differences in patterns of land conflict among rural societies according to the levels (state, local, intermediate) of political authority that govern land arrangements in each (ibid; Boone 2014). Writing about southern Zambia, where national legislation has combined with 'tradition' to put women in a bind over access to cultivable land, Nicholas Sitko (2010) coined the term "fractured governance" to denote areas where multiple authorities coexist, often working at cross purposes with one another and themselves (see, e.g., Le Meur 2006; Bierschenk/Olivier de Sardan 1998; Bierschenk et al. 2000; Chauveau 2000, 2006; Colin/Woodhouse 2010; Askew et al. 2013).

Many of these analysts agree that future disputes cannot all be settled or precluded at the stroke of a pen. Creating and enforcing legal instruments for titling may promote conflict rather than alleviate it. What's needed, they argue, is not just legislation, but legislation combined with flexible institutional mechanisms for interpreting and resolving disputed claims as they arise. How to "maintain the current delicate balance between flexibility and negotiability on the one hand, and definite evidence of rights on the other" (Hornby et al. 2017: 416) is an on-going struggle.

A number of studies have dissected the problems associated with 'land grabbing'—cases in which state officials, traditional authorities, or other powerful people have sold or transferred tracts of land to wealthy, often foreign investors—and the difficulties that face those who are displaced when they try simply to claim compensation, let alone recover the land they have lost[3] (see, e.g. Boamah 2014; Emana 2017; Ubink/Amanor 2008). Rather than repeat their findings, this paper focuses on the proliferation of more localised land transfers—sales, loans, leases and bequests—that began long before the recent era of 'land grabbing'[4], and continues today. After describing some of the conflicting interests and approaches that have been brought to bear on the governance of land in areas of rising land values, I discuss the longer-term process of commercialisation and some of the ways people have attempted to realise gains from rising land prices and productivity without provoking conflict. In conclusion, I suggest that while relations among family and other social networks are being transformed by the commercialisation of land, they continue to play a role in provoking and resolving land conflicts.

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[3] In South Africa, where post-apartheid regimes have struggled to restore land taken away from the African population after 1913 or, at least, to compensate people for what they have lost, is a case in point (Claassens/Cousins 2008; Atuahene 2014; Chitonge 2017). In other countries, state officials have either negotiated large land transfers to international investors directly or turned that authority over to traditional chiefs, as has been done in Ghana and Zambia. In 1979, Nigeria vested control over land in its 37 state governors, putting them in a similar position to Ghanaian and Zambian chiefs (Cotula 2009; Mabogunje 2007).
[4] International investors became interested in acquiring rural land in Africa after the boom in demand for biofuels that began around 2007, followed by a spike in global market prices for staple foodstuffs (Cotula 2009).

2 'Land reform': investment without conflict?

As competition over land intensified in the later decades of the 20th century[5], the co-presence of multiple claims increased possibilities for conflict. Conflicts arose when individuals or groups with claims on the same tract of land used it in ways that conflicted with one another. Farmers and mobile pastoralists coexisted peacefully, for example, if they used the same land at different times of the year, but could come to blows if herders grazed their animals too close to growing crops, or farmers burned off pasturage before herders' livestock had eaten and moved on (Bassett 1988; Moritz 2010). If alternative tracts of land were readily available, people might agree to go their separate ways, averting prolonged contestation or outbreaks of violence. If not, conflict could still be mitigated or deterred if disputants agreed to negotiate their differences or submit them to mediation, or simply hesitated to press claims against one (group of) rival(s) lest they incur more problems by antagonising other(s) (Oyama 2016).

As pressure on land increased and alternative income-earning opportunities declined, however, people's willingness to surrender their claims rather than provoke conflict dwindled, and conflicts over land became more frequent. Pressured by international lending agencies, African governments launched a variety of land 'reform' programs designed to promote investment—not by redistributing land from large underused private estates to small holders, but by clarifying and registering 'rights' of ownership, and issuing titles which landowners could use as collateral to raise loans.

Efforts to rewrite African land laws did not begin in the 1990s, of course. Both colonial regimes and newly independent African governments appropriated land—to promote European settlement, create African labour reserves, control valuable mineral resources, prevent soil erosion or overgrazing, experiment with irrigated or mechanised farming, or suppress commercialisation[6]—and enacted laws that legitimised their takings. As nationalist movements gathered force in the 1940s and '50s, colonial regimes sometimes made wide-ranging changes in land legislation, aimed at forestalling or suppressing grassroots uprisings against European settlers and colonial rule itself, and post-colonial African governments sometimes responded to political crises with similar interventions. Kenya's Swynnerton Plan is a case in point.

In other cases, ruling regimes gave themselves legal authority over the entire territory under their jurisdiction, but only used it in areas known to be rich in mineral or other natural

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[5] Increased demand for land was self-reinforcing. In the unstable and uneven market conditions prevalent in late 20th century Africa, rising land values reinforced expectations that land was a relatively safe and remunerative outlet for people's savings, leading to further increases in demand (Berry 2017).

[6] Colonial and early post-colonial land legislation sought to bolster state revenues and/or strengthen governments' control over the territory and people under their jurisdiction. In 'settler colonies' such as South Africa, Kenya and Rhodesia, governments set aside vast tracts of land for the exclusive use of Europeans, confining the majority of their African 'subjects' to crowded 'reserves', and forcing them to seek employment on settler farms and ranches. Areas known to be rich in mineral resources were declared government property, as were sites of agricultural development projects (such as the Office du Niger or the notoriously unsuccessful Tanganyikan Groundnut Scheme), hunting grounds, wildlife preserves and areas deemed to be under threat of environmental degradation. Some newly independent African governments simply left colonial land legislation in place, focusing their attention on more immediate priorities such as securing and consolidating their power. Others nationalised land ownership, but left the administration of land use and transfers to 'customary' authorities and practices (see, e.g. Chanock 1985; Lawrance et al. 2015; Palmer/Parsons 1977; Ranger 1983; Sorrenson 1967; van Beusekom 2002).

resources, leaving most land arrangements in the hands of local authorities and/or residents[7]. With a few notable exceptions, however, neither colonial nor post-colonial governments attempted to transform the entire legal and institutional system of land governance and exchange before the neoliberal 'reforms' of the 1990s—in part because both colonial and early post-colonial regimes assumed that limited land supplies were not a significant constraint on state finances or the development of African economies. Governing authorities were more concerned with how best to mobilise capital, deal with the labour question, or extract revenue from land and natural resources than they were with securing land titles for their citizens or 'subjects'.

3 "Strike while the iron is hot"[8]

Hoping to avoid a recurrence of the Mau Mau rebellion, in 1955, the colonial regime in Kenya launched a programme of land registration and titling that continued after independence. By the 1980s, a major portion of the country's arable land had been registered to named owners, but the practical effects were uneven. People were reluctant to use their titles as collateral, lest they become unable to repay their loans and lose the land entirely, and preferred to keep their land even if they weren't using it, as a form of insurance against future contingencies. According to surveys carried out in the late 1980s and early '90s, titles were largely irrelevant to people's economic needs, and many had never bothered to collect them from the land registry offices in their district (Bruce/Migot-Adholla 1994)[9]. The World Bank, which had sponsored the surveys, acknowledged the lack of a statistical relationship between land titling and farm productivity, but continued to suggest that land registration and titling would promote development when African farmers were ready for it (Place/Hazell 1993).

In other countries, new land legislation was passed in a belated and largely unsuccessful effort to stave off civil discord. Following the death of Côte d'Ivoire's long-ruling president Félix Houphouët-Boigny in 1993, politicians competing to succeed him sought to mobilise popular support by exploiting tensions between 'autochthons' and 'immigrants' over claims on land in the prosperous cocoa, coffee and oil palm belt of the south and southwest. Long simmering as land pressures mounted in the tree crop farming zones, conflicts over land became increasingly violent in the 1990s, drawing on and intensifying national level conflict over control of the state, and contributing to the outbreak of civil war and *de facto* division of the country into two antagonistic zones in the early 2000s. Next door in Ghana, by contrast, forest-dwelling families became increasingly antagonistic toward 'immigrant' farmers, but both groups blamed their frustrations on traditional authorities (chiefs)—whom

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[7] Land in the national domain is vested in the state, but managed and administered by local authorities and users. In anglophone societies, the state holds power of "eminent domain", allowing it to appropriate land that is needed "for public purposes" (Cotula 2009).

[8] Quoted from Sorrenson (1967: 113).

[9] At a conference convened to discuss the results of several World Bank sponsored studies that examined land tenure practices in several African countries, an official from the Kenyan Ministry of Agriculture apologised for missing the previous day's session to answer a summons from a court. "My father is challenging my title [to a piece of land in Central Province]", he explained, "and he will win".

they accused of selling forest land out from under local residents—rather than on the national government (Berry 2017; Boni 2005, 2006; Boone 2013, 2014; Chauveau 2006).

More recently, a series of 'invasions' of (mostly) White-owned land by a mix of African tenants, poor farmers, and war veterans, led to a substantial one-off redistribution of rural land from large to small and medium-sized farms in Zimbabwe[10]. Smaller land invasions had occurred in Zimbabwe in the 1990s, but were ruthlessly suppressed by the country's armed forces. By 2000, however, Robert Mugabe, then President of Zimbabwe, was facing a real prospect that a continuing decline of the economy would threaten his own hold on power. To distract the mounting chorus of critics, the next time small-scale farmers, tenants, war veterans and others invaded White-owned farms, Mugabe ordered the army and police to stand back and let events take their course. As a political manoeuvre, his ploy helped his regime hold on to power for 17 more years, until he was finally deposed in late 2017 by one of his erstwhile political allies. Mugabe's successor is now under pressure to settle displaced farmers' claims to compensation, but the economy remains depressed and it is not clear where the current government will find the money to pay them (Onishi 2018; Scoones 2018).

Elsewhere, legislation to enable land registration and titling was passed without a major uprising, but with similarly uneven effects. In a number of countries, governments have effectively nationalised land ownership, while promising to provide certificates of occupation or other forms of documentation that may protect land users but that also facilitate land transfers that end up displacing small-scale cultivators. The practical meaning of a certificate is often left undefined, leaving land users' claims ambiguous and no more secure than they were without the official document in hand. It is hardly surprising that few people have bothered to apply. Nor is it startling that, when investors have acquired land and established large-scale farming enterprises, their impacts on surrounding economies have been uneven. Comparing several types of commercial farming schemes (plantations, outgrower schemes, large-scale commercial farm enterprises) in Ghana, Kenya and Zambia, Ruth Hall, Ian Scoones and Dzodzi Tsikata (2017) conclude that their effects on employment, incomes and opportunities for accumulation have varied a good deal, "in part because local conditions play critical roles in unfolding outcomes for land relations, labour regimes, livelihoods and local economies" (ibid: 515).

In a series of in-depth studies of post-apartheid land reform in South Africa, researchers found "a fundamental mismatch between the formalized system of titling and […] local tenure arrangements" in both rural and urban localities[11] (Hornby et al. 2017: 394). Official action is necessary, they argue, to support users' claims, especially those of politically marginalised people, but local arrangements are too varied and dynamic to be effectively protected by a single system of land law and administration. Laws that define the claims of owners, occupants, tenants and others allow land users to seek official backing for their claims, but do not guarantee them—not only because local people's access to legal protection is uneven, but also because the economic and political conditions that shape

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[10] The impact on production, investment and farmers' incomes has been mixed (Scoones et al. 2010).

[11] Adopted after the fall of the apartheid regime in 1994, the land reform in South Africa had three major components: restitution of mostly African-owned land that was confiscated by the state and transferred to Whites after 1913, redistribution of large land holdings to small-scale users, and reform of land tenure in the former African 'homelands' (see, e.g. Atuahene 2014; Ntsebeza 2005; Claassens/Cousins 2008).

people's need and demand for land continue to change. In one area in the Eastern Cape where Africans have held freehold titles continuously since the 19th century, Kingwill reports that families refrain from keeping title deeds up to date. Originally issued to named individual heads of families, these titles have become "family properties", managed by the descendants of the original title-holder on behalf of the family as a whole. By keeping the title in the name of a deceased elder, the family protects it from alienation (Kingwill 2017). At the same time, however, "the […] lack of accuracy of deeds registers […] threatens the integrity of the system as a whole" (Hornby et al. 2017: 399). While acknowledging that flexible tenures are subject to co-optation by local authorities and have "sometimes enabled the exclusion of more marginalized members", the authors conclude that "social tenures confer *de facto* rights" and should therefore be recognised and supported by the state, rather than replaced in a misguided quest for legal fixity (ibid: 402f.). Legislation needs to be combined with institutions that establish flexible mechanisms for negotiating and resolving disputed claims as they arise. Achieving equitable and sustainable access to land is not something that can be settled, once and for all, but requires an on-going process of adjustment and enforcement, as well as "sustained political pressure on the state […]. This in turn implies grassroots mobilization and organization on a large scale" (ibid: 412).

4 Commercialisation

Growing pressure on land stems from processes of commercialisation that have been underway in Africa for a long time. Economic historians and anthropologists have explored the long-term impact of commercialisation on social relationships (and vice versa) in considerable detail. Recognising the rich diversity in African institutions and cultures, researchers have carried out in-depth studies of particular communities, producing sensitive and illuminating analyses of the way particular institutions and social relationships have shaped and responded to larger economic and political transformations. Examples include studies of marriage and parenting (Allman/Tashjian 2000; Bledsoe 1980, 2002; Comaroff 1980; Cooper 1997; Murray 1981; Mutongi 2007; Shadle 2006; and many others); seniority (McClendon 2002; Berry 1985; Chauveau/Richards 2008; Mathieu et al. 2003; Murphy 1980), "home town associations" (Meagher 2010; Berry 1985; Little 1965); ancestors and funerals (Boni 2010; Arhin 1994; de Witte 2001; Mazzucato/Kabki 2008; van der Geest 1995, 2000); indigenes and strangers (Lentz 2013, Boni 2005, 2006; Chauveau 2000; Geschiere 2009); as well as religious orders and institutions (Last 1988; Copans 1980; Coulon 1981; Marshall 2009; O'Brien 1970; Soares 2005; Villalon 1995).

In the past, as far as we know, land in Africa was rarely subject to freehold ownership by individuals or groups of people who exercised exclusive control over clearly bounded parcels of tracts of land. Access to land was associated with membership in or acceptance by members of a household, family, community, polity, or other social group. A stranger or 'latecomer' who acknowledged the authority of the group or its leader(s) was usually free to settle on any piece of land that was not already occupied, cultivate the soil, and use common resources available to all. Particular parcels of land were thus subject to layers of claims by a number of different people, many of whom shared access to the same land but used it in different ways (see, e.g. Kuba/Lentz 2006; Berry 2002; Oomen 2005; and many others).

As commercial cropping, urban settlements, state-directed development and/or conservation schemes spread, land itself acquired a market value. In the forested zone of West Africa, for example, where production of tree crops for export created long-term claims to the land they were planted on, it became increasingly difficult to sustain legal distinctions between land-based assets and the land they stood on. As stands of bearing trees changed hands through sale or inheritance, buyers (or heirs) might forget (or ignore) that, in theory, claims to the land they stood on remained open to members of the families or communities who had allowed neighbours or immigrants to plant trees in the past. Women, youth and other vulnerable members of these original land-holding groups who now found themselves excluded from their 'ancestral' lands protested, sometimes violently, against their own kin or neighbours[12] (Badri/Tripp 2017; Davison 1988).

Tensions also rose in arable farming areas, as demand for foodstuffs and other annual crops increased. Part of this increase stemmed from expanded production for export, as sales of cocoa, coffee and oil palm raised farmers' incomes, creating domestic markets for food crops, fibre and fuel (Schwimmer 1976; Cowen/Shenton 1996; Hill 1970; Kanogo 1987). Arable crops such as cotton, tobacco and maize also found buyers on the world as well as local and regional markets, promoting the monetisation of rural economic life in savanna as well as forest zones, and linking rural livelihoods to swings in market conditions that farmers could not begin to control (see, e.g. Watts 1983; Clough 2014; Mathieu et al. 2003; Paré 2001; Zongo 2005). Areas of expanded cultivation also became venues of conflict between farmers and mobile pastoralists whose animals could no longer move freely past farming communities without trampling or grazing on people's crops.

As pressures on land increased and conflicts became more frequent, people experimented with ways to realise gains from one form of land use or transaction without precluding others' rights of access or alternative use. Rather than 'evolving' toward outright sales, as some economists have argued, leases or share-cropping arrangements—which allowed farmers or builders to use or draw revenue from land without directly challenging others' claims—often *followed* periods in which sales of land had caused conflict[13] (the chronology of commercial land transactions has been described by Hill 1963; Austin 2005; Boni 2005; and others for Ghana, and in Ruf/Siswoputranto, 1995; Babo 2013; Chauveau/Colin 2010; and Colin 2017 for Côte d'Ivoire).

Commercial cultivation of arable crops also altered the stakes in land access. Cotton production rose rapidly in the relatively fertile lands of western Burkina Faso, for example, when—after the eradication of river blindness in the late 1970s—farmers moved into the area (McMillan 1995; Mathieu et al. 2003). The influx of migrants led family elders to cede land in exchange for occasional gifts (later rent), but provoked conflict within local families,

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[12] The pressures placed on forest resources by expanding cultivation of tree crops were further intensified by timber exploitation (Ruf/Siswoputranto 1995; Boni 2005).

[13] Arrangements vary from commercial rents or share contracts to informal expressions of 'gratitude', through periodic 'gifts' (known as *tutorat* in francophone societies), payments that acknowledge a gift or transfer ('thanks' or known as *aseda* in Akan areas of Ghana), prestations or 'tribute' given to traditional authorities or outright bribes to local officials (see, e.g. Chauveau 2006; Babo 2013; Berry 2001; Mathieu et al. 2003; Rattray 1969).

as young people fought against their own senior kinsmen, accusing them of selling off 'family' land on which their own futures depended[14].

Coming on top of volatility in market conditions and struggles rising from increased pressure on forest and arable land, the top-down programmes of land tenure 'reform' that were launched by many African governments in the 1980s and '90s, under pressure from international donor states and institutions also fomented land-related conflicts, some of which turned violent. In general, these policy initiatives were designed to 'clarify' and 'secure' rights of land tenure in order to stimulate investment—either by reducing the risks of investment in land improvements, and/or by enabling land owners to use their land as collateral to raise loans for other kinds of productive investment. Like formal or informal 'sales' of rural land, official land registration and titling eliminated or threatened many of the people whose claims to land co-existed with those of others, heightening tensions between *de facto* or *de jure* land owners and others who had previously shared in rights to use or transfer the lands in question.

Based on recent studies of land acquisition and tenure in southern Côte d'Ivoire, Colin (2017) argued that the spread of leasing may have helped reduce social tensions in areas where land pressures have become acute. Indeed, loans and leases sometimes serve to reinforce the claims of the lessor(s). If a dispute should arise at a later time, neighbours and local officials who were called to witness the lease can confirm the identity of the lessor and the fact of their authority over the land. A similar point underlies the apparently paradoxical statement made by Jean-Pierre Dozon (1985), writing of the commercialisation of land transactions in the tree crop farming zone of Côte d'Ivoire. Rural land sold is not the same as 'private property', he explained. The buyer's obligations to the seller do not end when the land is sold. While the buyer may sell their purchase to another buyer or pass it to their heirs, they remain a debtor to the one they bought it from—a relationship signified by periodic gifts of foodstuffs or coffee. In effect, Dozon explains, a transaction does not mean "I am an owner, therefore I sell", but rather "I sell, therefore I am an owner" (ibid: 289; see Chauveau 2006).

Divergences between statutory land laws and practices on the ground are not limited to the West African forest zone. Rising pressures on land in the Communal Lands in Zimbabwe led to similar struggles between elders and junior kin, women and men (Nyambara 2001). The land invasions of the late 1990s and early 2000s gave rise to a radical redistribution of land in the freehold areas from large to small and medium-sized farms, but did not eliminate pre-existing claims (Scoones et al. 2010). In a study of land relations in a rural area near Harare, David Goodwin (2013) reported that land in the area frequently changed hands for money, but observed significantly that "sales are rarely final […]. The emerging land market in Zimbabwe's communal areas", he added, "is insecure […] and those buying land rights strategize to maintain access [and] secure their rights", for example by "investing in interpersonal links" (ibid: 183; compare Onishi 2018). Even in the case of transactions that both parties agreed to in the presence of witnesses, subsequent disputes over what was

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[14] Dispossessing youth of access to portions of family land jeopardised not only their livelihoods, but in many cases their future ability to marry, establish families, and become full social adults (Mathieu et al. 2003). Similar points have been made about growing constraints on economic opportunities for young people in other parts of Africa (e.g. Amanor 2001; Chauveau/Richards 2008; Hansen/Dalsgaard 2008; Shadle 2006; and many others).

'bought' can lead to prolonged and bitter conflict, affecting relations not only between buyers and sellers, but also, among their relatives, neighbours, co-workers, etc.[15].

5   Beyond legislation: who owns the land?

Part of the continuing divergence between law, official records and practices on the ground arises from the fact that whereas legislation often seeks to standardise rules and tenure arrangements for an entire country, people's circumstances are varied and changing (Hornby et al. 2017: Introduction). After struggling with seemingly intractable social tensions or the fallout from violent conflict, people have experimented with alternative ways to capitalise on more productive or remunerative uses of land. They often do this without directly attacking either 'layers of rights'—that enable multiple land users to coexist without coming to blows—or the authorities who wield legal or *de facto* control over land allocation and transfer. Examples include leases (in which land-holders cede land use rights to others in exchange for some form of payment in money, material goods and/or labour), share-cropping, loans, and 'gifts' or forms of 'tribute' that acknowledge the recipient's continued authority over land, while allowing the giver to use it for their own benefit. Discussing the recent emergence of 'plant and share' contracts in the tree crop zone of Côte d'Ivoire[16], Colin argues that plant and share contracts are less contentious than land sales, because they "allow autochthonous landowners to overcome the constraints they face [in recruiting and keeping labourers on their land] without losing their land rights […]. As such they do not just 'kick the problem down the road' as did other modes of land access" (Colin 2017: 161f.).

People who cannot reach an agreement on who may claim access to a piece of land and on what terms, often seek mediation from family elders or village headmen. If this also fails, they may turn to chiefs, religious authorities, market authorities or local officials. As many scholars have pointed out (e.g. Boone 2014), access to state-run courts or other formal venues of adjudication is limited for people who lack the means or education to use them effectively. Even so, there is a substantial recorded history of formal litigation over disputed claims to material goods and resources. Beginning in the late 19th century, colonial regimes across the continent established some form of courts, both to protect Europeans who settled, traded, or extracted resources from colonial domains, but also to try to resolve conflicts and contain dissent among their African 'subjects', and independent African states continued and elaborated systems of both statutory and 'customary' law as well as formal adjudication of disputes.

People went to court to settle disputes over land, but also over obligations and conduct toward one another both within and beyond domestic relationships. As a number of studies have shown, women and other historically subordinated groups of people sometimes found

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[15] Quarrels over land among people who are related to one another (as kin, affines, neighbours, etc.) often work to the detriment of women and youth (see, e.g. Peters 2004; Chauveau/Richards 2008; Goodwin 2013; Hall et al. 2015).

[16] Under a plant and share contract, a landowner allocates a piece of land to (usually an immigrant) labourer, who plants and tends the farm until the trees begin to bear, then divides it with the landowner. Although these contracts evidently did not appear in Côte d'Ivoire until recently, they are similar to *abunu* contracts which have been used in Ghana since the early 20th century (Hill 1956).

that their interests were better served in court than at the hands of family or village elders, and took their complaints to court if they could possibly arrange to do so. Archives of colonial and post-colonial court records thus provide a significant, though not representative window into changes in systems of governance and social organisation of competition over land (Mann/Roberts 1981; Allman/Tashjian 2000; Cooper 1997; Mnisi-Weeks 2011; Roberts 2005; Shadle 2006).

Even for those who can defend them in courts, land titles and time-contingent contracts such as mortgages and leases are not a panacea. Where land is subject to multiple claims, disputes may give rise to contradictory obligations that limit people's ability to negotiate and may intensify social divisions rather than alleviating them. In recent years, frequent clashes between farmers and herders have led many to argue that increasing pressure on land is driving an ever deeper wedge into what used to be a mutually beneficial arrangement between mobile pastoralists, whose animals grazed on the stubble left on farmers' fields after harvest, and sedentary cultivators whose land was fertilised by the droppings of passing animals (Bassett 1988). Yet one ethnographer learned that many of the Mossi farmers in central Burkina Faso who rushed out with their neighbours to attack herders whose animals trampled their crops, owned animals in the herds they were attacking. Many of these farmers had purchased livestock with money they made as migrants working in more prosperous farming areas in the south, and had engaged Fulani and other herders to look after them. To prevent their neighbours from knowing how wealthy they were, they made a show of joining them to drive mobile herders and animals off their land[17] (Breusers 1999).

In other cases, people who had willingly given immigrant farmers permission to cultivate unused portions of forest land, receiving payments or 'assistance' in return, turned against the migrants or their descendants as pressure on land increased. Invoking their 'customary' rights to the land, former land grantors now depicted themselves as 'indigenes', entitled to demand larger payments or even reclaim land formerly given out to migrants with no time limit specified. In some cases, the descendants of former migrants who had long become accepted as members of the communities where they farmed found themselves cast as 'strangers' or 'foreigners' with only temporary claims to the land they farmed on. Such reversals were pronounced where migrants had planted 'permanent crops', such as cocoa, oil palm, or other long-lived tree crops (Boni 2005, 2006; Chauveau 2000).

Another example of social relationships that emerged as people attempted to cope with economic pressures is the increase in the number of three-generation matrifocal households reported by Dzodzi Tsikata (2006) and Kojo Amanor (2001). Both found that in areas of southern Ghana, where the productivity of farmland had declined and women in particular had few alternative opportunities to earn income, the number of three-generation matrifocal households was growing. Banding together to share expenses and to assist one another in household enterprises, women had turned away from older forms of male-headed residence. Barely able to make ends meet, however, relations within these multigenerational female oriented households were often tense, and subject to breaking up. Contract or outgrower

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[17] The whereabouts of migrants' livestock was a well-kept secret, Breusers explains, which it took him two years of full-time residence in the village to uncover. My inability to find comparable examples in other scholars' work could reflect the farmers' unwillingness to disclose their wealth, or it could be that Breusers' case is an aberration (Breusers 1999).

farming schemes are another increasingly common strategy for 'modernising' agricultural ventures that is often fraught with tension. In these schemes, investors seek to attract labour by employing outgrowers to cultivate their own land and offering them future control of the income once they have paid off the inputs and working capital advanced by the owners (see, e.g. Hall et al. 2017).

The conflicting pressures that often arise in economies characterised by intensified competition over land, unstable markets, and rising inequality sometimes dissolve social relationships, sometimes reinforce patterns of hierarchy and difference within them, and sometimes do neither—keeping people together in tense relations of mutual dependence that they may accept for lack of alternatives, but may also give way to recrimination and/or open conflict (see, e.g. Oyama 2016; Amanor 2010; Degani 2017).

6   Conclusion

As Pauline Peters (2004) and others have shown, local hierarchies can often exploit flexible arrangements to arrogate land to themselves, marginalising less socially powerful people in the process. The challenge is not simply to protect their access, but to sustain such protections without blocking people's ability to renegotiate agreements and relationships when needed to cope with changing conditions. The difficulties of "balancing security with flexibility" have been explored in depth in South Africa, where efforts to undo decades of apartheid have been both far-reaching and deeply contentious (Hornby et al. 2017; Claassens & Cousins 2008; and many others). While South Africa's system of extreme racial segregation and enforced economic inequality was in many ways unique, its post-apartheid experience with efforts to legislate progressive change has much in common with similar initiatives in other African societies.

The strength of a moral economy centred on family and community values is implicitly debated in two recent books on Nigeria. Based on many years of field research in northern Nigeria, Paul Clough's study (2014) portrays Hausa economic life as deeply imbued with moral precepts that have persisted over many years. Kate Meagher (2010), on the other hand, found that Igbo artisans no longer took part in the home-town associations for which their society is famous because, in today's economically straitened circumstances, they could not afford them. In Zambia, where the constitution was rewritten in the mid-1990s to vest authority over land in traditional chiefs, one long-running case study argues that Bemba farmers resent but do not challenge the chiefs' alienation of farm- and woodland—in part, one author suggests, because they believe that wicked behaviour invites sickness and they do not expect that chiefs will long survive such wrongdoing[18] (Oyama 2016).

As these and other examples attest, family ties and other social relationships have been reworked, sometimes radically, as people seek to take advantage of commercial

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[18] In 1985, Jerry John Rawlings' military regime in Ghana made it illegal for matrilineal families to follow the customary practice of claiming the entire estate of a deceased member, leaving his widow(s) and children with nothing. If a man or woman died intestate, the majority of their property would pass to the conjugal family, leaving a smaller portion to the surviving parents (if any) and matrilineal kin. Twenty years later, peri-urban and small town residents whom I interviewed in Asante were well aware of the law, but explained that they had written a will (or intended to) specifying their surviving spouse as principal heir, but taking care to allocate part of their property to their matrilineal relatives to avoid future 'trouble' for the widow(er) (Berry 2017).

opportunities and/or cope with the pressures of competitive, unequal economic life, but they continue to figure prominently in the social organisation of economic affairs (Adebanwi 2017). Families pool resources to send promising sons and daughters to university, at home and abroad, and rely on family houses for accommodation if they cannot afford to rent or build separate dwellings (Amole et al. 1993; Tsikata 2006). They appeal endlessly to relatives, co-workers, neighbours, etc. for loans or 'assistance' in making ends meet and reciprocate when they can to keep their own options open. In struggles over land, at least, family ties and other social relations have been transformed—often under stress—but they have not ceased to play a significant role in African economic and political life.

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