Chapter 8

Understanding Land Issues in Anglophone Africa

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Introduction

The nature of land as a finite and non-renewable resource central to both the material well-being of people and the politics of belonging makes land a 'special substance' (Lentz 2007). Shipton (1994: 347) notes that '[n]othing excites deeper passions or gives rise to more bloodshed than do disagreements about territory, boundaries, or access to land resources'. Under the capitalist paradigm land is solely understood to be a commodity. However, any discussion surrounding land in Africa must first recognise that in African epistemology, land is tremendously more than a market commodity. As Gutto (2014) succinctly puts it, '[l]and is not only the material and spiritual basis of life for individual human beings, but is also an essential component of the means of social production and reproduction, and statehood'. Issues, attachments and controversies over land permeate every society and have shaped war and peace, dictatorship and democracy. In Africa, particularly in Anglophone Africa, contentions over land have defined relationships, nationhood, and statehood. While it has strong physical geographical features, land covers the surface of the earth and within it are numerous resources that humans have exploited for profit and sustenance. There is a direct connection between land and humans. It defines our relationships, our nationality, and affects electoral/democratic processes; campaigns, votes and governance that are linked to the geographical areas of support. Land is interrelated with a country's economy and its politics. Its connection to identity, memory and culture shapes individuals and groups on social, political and customary issues (Cotula 2007). In Africa, land is intertwined with beliefs, customs, traditions and values.

Land remains a core factor when assessing the socio-economic development of African societies and the potential for democratic survival. Land reforms in Africa are often entangled in questions over women's rights, traditional leadership, and even citizenship rights (Boone 2007). From Nigeria, South Africa, Malawi, Zimbabwe, Zambia, Ghana to Botswana, not to mention several other African countries, access to and tenure of land shapes governance and internal strife. Lund et al. (2014)

217

illustrates this position by claiming that:

'Land is also a conflict-ridden resource, and, due to its many meanings, a sensitive issue in Africa. Disputes and conflicts about land occur at all levels: Conflicts between neighbours about field boundaries; between men, women, and generations about their respective land rights; between pastoralists and farmers; between states and indigenous peoples; between companies and local populations about rights to exploit mineral and other resources.' (p. 5).

To further extol its relevance, Jill (2017) maintains that land is a crucial tool to unlocking economic potential in Africa. However, attempts to unravel its economic potential, the contestations arising from its exploitation, distribution and management, have fuelled violent conflicts that have threatened democratic rule throughout the continent.

Properly managing land has come to be the *sine qua non* condition to development, peace and security. Yet, the contestations, controversies and the issues of land reflect the struggle for socio-economic development amid the realities of political and socio-cultural complexities. These complexities include the need to incorporate ideological perceptions (as in the case of Uganda and Kenya), to recognise inalienable land rights and appreciate the marked displacement of cultural values. As noted by Moyo (2003), the contradictions in both colonial and post-colonial land policies are coupled with a significant struggle for land accumulation under global capitalism, as well as struggles for democratisation reflecting the growth of resource conflict in Africa. Despite the preponderance of land endowment and its inherent natural resources, Africa still wallows in poverty and underdevelopment that negatively affects its democratic and governance prospects. This has led to communities confronting and using different strategies to resolve land and resource dilemmas through a variety of governance mechanisms (Ostrom 1990; Jack 2013).

Given how central land is in Africa's democratic and developmental discourse, this chapter seeks to examine the historical, political, economic and social issues related to land and how these have affected democratic rule and developmental efforts. Land as a natural resource endowment is pivotal to attaining economic development and alleviating poverty — all which are directly related to democratic sustenance in the continent.

This chapter is divided into several sections exploring different aspects of the land question. Section one introduces and gives the background to the study, while section two conceptualises land and the issues associated with it in Anglophone Africa. The third section traces the history of land issues and section four examines issues of land and colonialism while assessing its impact on

Anglophone Africa. The next section examines contemporary issues in land management, while the sixth section looks at the challenges of resolving land issues. This is followed by a section that addresses land management issues with projections for the future. The last section summarises the arguments and draws the conclusions that provide recommendations on how land management issues should be further addressed.

Conceptualising land issue in Anglophone Africa

Land constitutes the focal point of human activity, sustenance, agriculture and habitat. Within it are deposits of resources that humans have exploited for life and survival. However, issues surrounding its usage and management has spawned different actions and reactions in different parts of the world.

Not unexpectedly then, a myriad of issues has been associated with land in Anglophone Africa. Indeed, many contemporary socio-political issues were precipitated or underpinned by the idea that these countries were left underdeveloped when the colonial powers withdrew and that this was further affected by the systematic and gross mismanagement of land over time. These range from a geographical and ecological context of land-to-land concentration, from land grabbing to land accumulation issues, as well as important questions surrounding land tenure, land distribution and land reforms.

The African Union's Framework and Guidelines on Land Policy in Africa (2010) reveals that the issues are all encompassing:

> 'The land question facing Africa has its origins in geo-political, economic, social and demographic factors more recently compounded by emerging global and strategic imperatives. These include different forms and modes of colonisation experienced in various regions, the diversity and degree of persistence of indigenous cultural and normative systems and forms of economic organisations. These factors and imperatives have, in turn, given rise to a variety of legal regimes relating to land tenure, use, management and environmental governance (p. 5).'

And Moyo (2003: 1) paints a broader picture of the controversy by asserting that:

> 'The land problem in Africa has escalated in the wider context of struggles over the land rights "embedded" in extensive mineral and other natural resources of exchange value to global

tourism, forestry and bio-technology markets which are rapidly being concessioned into external control. Civil wars, inter-country conflicts in the region, migration and involuntary displacements are all symptomatic of increasing land conflicts involving direct confrontation over access to key natural resources by both domestic and external forces.'

Land issues in Anglophone Africa are multidimensional largely because their socio-cultural, historical and political forces have been influenced by their specific colonial experience. For example, in Nigeria, Zimbabwe, Kenya and South Africa, like other Anglophone African countries, land issues are woven around memory, identity and governance. Memory, for instance, in the sense that land issues are tied to individual and group ancestry and traditions, land is part of the folklore of many Africans signifying place of birth, ancestral home, and where economic activities take place (farming, trade, etc) and where income is generated. Identity, also referred to as ethnicity, relates to the shared social consciousness of particular groups of people based on land or geographical consanguinity. Ethnicity is socially far-reaching and has shaped politics and governance in Africa (Afolabi 2019). The governance of land and the issues related to it often result in contentions and contestations about who controls what, how and when — particularly so when the land is rich in

resources. This has deep implications for democracies where there are clashes over land, especially between 'natives' and 'settlers' (for example, in South Africa, Zimbabwe, Zambia, and Kenya) and between foreign investors and local communities (as is the case, for example, in the Niger Delta region) (Saliu, Luqman, and Abdullahi 2007; Rothstein 1986). As Moyo (2004) notes, 'conflict today results from past violence over access to land and natural resources during pre-colonial conquests that continued in the colonial period, during which there was polarization along racial lines due to the ill treatment of blacks by whites in farms, mines and towns'. The clashes around land issues have generated considerable insecurity and have compromised the democratic aspirations in most of Anglophone Africa to the extent that some scholars have talked about the feasibility of democracy in Africa (Afolabi and Idowu 2019; Ake 2000).

In Uganda, historical land issues have centred around questions of customary land tenure versus individual land ownership (Mugambwa 2007). In Zambia several dimensions to the issues of land are discernible — issues on foreign ownership, displacement and customary land — but recently, the issues revolved around how traditional authorities plan to change the rural setting and involve negotiating the politics of gender and balancing customary land rights with the government's right to own and distribute land. The Botswanan case, on the other hand, takes a contrary outlook. Despite the dual system of statutory and customary tenure inherited from its colonial past, the

country has been able to successfully develop a robust land administration which has facilitated its economic prosperity and improved its democratic dispensation. In Nigeria, Ghana, Kenya and a host of other Anglophone countries, land issues pose serious threats to democratic sustenance given the complex nexus of herders-farmers crisis, settlers-indigene controversy and government ownership of land. Land issues are extremely difficult to resolve. Mishandling them could either stunt or truncate democratic rule. Indeed, land questions are so complex and so central to Africa that the African Union developed land guidelines and frameworks to reduce the number of land-related crises, conflicts and violence while seeking to boost the land rights, productivity and livelihoods of people living on the continent (AUC-ECA-AfDB Consortium 2010).

Understanding Key Terminologies

To appreciate the land issue, one must first unpack a few key terms that surround the study of land in Anglophone Africa. The concepts include African customary law, legal pluralism, land concentration, land grab, land tenure, land accumulation, land rights, land distribution and land reform.

African Customary Law

Customary law can be defined as 'a set of rules, usually not codified, drawing on tradition yet continually evolving under the influence of contextual pressures' (Hull et al. 2019). Prior to the colonisation of Africa by European powers, customary laws governed all affairs of the people of the continent (Hooker 1976). Customary laws draw their legitimacy from long held customs and traditions. However, it is generally accepted that traditional practices are fluid and have been affected by modern forces such as colonialism and post-colonial influences. Diala (2017) further differentiates between 'official' customary law and 'living' customary law. Living customary laws are distinguished from official customary law in the sense the latter is usually codified and restrictive while the former is uncodified and flexible.

Legal pluralism

Legal pluralism can simply be described as a situation in which 'more than one source of law, more than one legal order, is observable' (Griffith 1986). Cotula (2007) asserts that people often observe

both statutory and customary law depending on their needs often resulting in legal pluralism. Indeed, most African states officially recognise the legitimacy of customary laws. For example, Hull et al. (2019) note that the Section 2.1 of the South African Constitution enshrines the customary law system as equal in status to formal law.

Land tenure

This can be conceptualised as the relationship, whether legally or customarily defined, among people either as individuals or as groups with respect to land (Faure et al. 2002). Land tenure is an institution, that is, it is a set of rules invented by societies to regulate behaviour – rules of tenure that defines how property rights to land are to be allocated within societies. It can simply be defined as 'the terms and conditions on which land is held, used and transacted' (Adams et al. 1999). Land tenure defines how access is granted to use, control, and transfer land, along with associated responsibilities and restraints. In simple terms, land tenure systems determine who can use what resources for how long, and under what conditions (Faure et al. 2002). The land tenure system is, therefore, central to determining property rights.

Customary, traditional and communal tenure

Most scholars tend to use the terms 'customary', 'communal' and 'traditional' interchangeably (Cousins 2008). However, it is crucial to understand those terms as distinct concepts. As Bennett (2008) argues, to describe customary tenure as communal is to imply that all land managed under customary law belongs to the community rather than individuals and that the land is used collectively for a common purpose. Yet, in practice customary land rights can be individualised and/or communal (Hull et al. 2019). Under customary tenure, landholdings are 'regulated by local traditional institutions and also based on customary norms and practices' (Chitonge et al. 2017). As such access to land is regulated by 'social norms and networks . . . where local powers play an important role in land rights regulation and conflict resolution' (Lavigne Delville 2010). Adams et al. (1999) further distinguish between 'holdings' and the 'commons'. The former refers to land occupied and used by households or individuals; the latter refers to land that is shared among members of the community. A clear example of 'commons' is grazing land used by all members of a particular community. As noted by Okoth-Ogendo (2000), access to the commons is usually restricted, as the commons is 'available exclusively to specific communities, lineages or families operating as

corporate entities . . . characterised by . . . their permanent availability across generations past, present, and future.' As Okoth-Ogendo insists, customary land should be conceptualized as private property controlled by the community. Even though the system of customary tenure is essentially community-based, members of the community can have individual rights and responsibilities with respect to the use of land (Hull et al. 2019).

The communal aspect of customary tenure highlights the social value of land. Indeed, as Hull et al. (2019) note, land rights 'mirror the social and cultural values of the community and gain legitimacy from the trust a community places in the institutions governing the system'. Land rights are usually derived from the accepted membership of a community, whether on the basis of kinship ties or acquired allegiance.

Land concentration

This refers to the control of key areas of land by a few dominant actors. Here the argument centres around the fact that peasants would arguably be less productive than the big organisations/actors, and therefore their access to land should be considerably reduced with land concentrated in hands of elites or dominant societal actors (Minaud 2015).

Land grabbing

Land grabbing is a global phenomenon. In Africa, it refers to the purchase or acquisition of land use rights to produce food, biofuels, or animal feed (Batterbury and Ndi 2018). According to Borras and Franco (2012) a 'land grab' is the power to control large quantities of land and landed resources to ensure food security, plan for short- or long-term climate change impacts, and manage essential financial exigencies. In a clearer sense, it is the displacement of peasant farmers in favour of large-scale producers; acquisition of land meant to cultivate cash crops; and the privatisation of common resources (such as land and forests). In Africa it is most frequently used pejoratively as in the Kenyan experience where land grab meant the irregular and illegal allocation of a wide array of public land to foreign and local investors (Klopp and Lumumba 2007).

Land reform

This is a process which involves comprehensive restructuring or redesign of at least three components

of the land system, viz. its land structure (its property), land use and production structure, and also as land support services infrastructure.

These concepts give a window into the components of land, how it is conceived and explained, and what the land-related issues are in Anglophone Africa.

History of Land Issues in Anglophone Africa

The history of land issues in Anglophone Africa stems from the colonial period and continues in the post-colonial era. The pre-colonial land issues are not pronounced except in few places where boundaries between one ethnic group and another are not clearly defined. The conflicts and issues over land across these specific Anglophone African states have centred mostly on land tenure, land rights and land reforms. They have been shaped by socio-cultural, political and economic realities. These issues underscore several claims that land has been mismanaged and underutilised in Anglophone African states.

With the notable exception of Botswana, the trajectories of land reform in Anglophone Africa have been a source of contention and contestation. In most Anglophone African states, the issue of customary land tenure versus individual tenure or statutory tenure have been at the fore of land disputes. The South African, Zimbabwean, Ugandan, Kenyan, Zambian and other cases provide insights about land conflicts sparked by unfavourable reforms. In South Africa, for instance, land issues have revolved around major inequalities in access to, and rights over, land between the black majority and the white minority. The foundation of this inequality can be traced back to the Native Land Act (1913) which provided the legal bases for the subsequent division of the country into relatively prosperous white heartland and a cluster of increasingly impoverished black reserves on the periphery (Walker 2017). Since the democratic transition of 1994, the post-apartheid state has struggled to develop an effective land reform program that can address the crosscutting demands for land redistribution, local development, and representative government.

In the Kenyan case, the struggle over land became the instrument of resistance to colonial rule (Lumumba 2005). The Giriama, the Maasai, the Kikuyu, the Nandi and the Luhya and Pokot reacted violently to colonial land dispossessions – a struggle that continues to this day. The manner in which individuals or groups in Kenya hold, use, occupy, possess or have access to land since colonial rule shows how land lies at the heart of many potential and violent conflicts. This violence in Kenya will be further discussed below. In Nigeria, the case of the Ogoni people's land claims against the rights of Shell Petroleum and its oil exploration is an obvious example. While many of the land issues

are historical, the continuation of these disputes, crises and conflicts signpost the complexity of resolving land issues.

Colonialism and its Impact on Land in Anglophone Africa: An Assessment

The influence of colonialism on land issues in colonial and post-colonial Africa, and specifically, Anglophone Africa, cannot be overemphasised. At independence, most Anglophone countries had adopted the colonial pattern and practices with respect to land allocation and distribution. The recognition of the indigenes' right to land (customary land right) was only granted on exceptional cases rather than being the norm among the British colonies (Mugambwa 2007). Customary land rights and ownership was only given recognition with certain limits. In Uganda, for instance, Mugambwa (2007: 40) posits that the 'British protectorate administration declared most land in the territory Crown Land by virtue of the protectorate'. The Crown Lands Ordinance of 1903 only granted Ugandans the right to occupy land outside of the Buganda kingdom and urban areas and those not leased without corresponding license or consent as required by the customary law. Only the Governor General had the exclusive rights to sell or lease such lands with total disregard for the customary occupants (Mugambwa 2007). The Governor General also determined whether and to whom he paid compensation for displacing occupants. Later, the 1955 East African Royal Commission (EARC) Report further underscored the essentially Eurocentric approach to land ownership and land tenure, dismissing the communal African customary land tenure as insecure.

These policies helped colonial administrators to appropriate citizens' land and sell it to foreigners/foreign investors – a policy that triggered the 'Mau Mau uprising' in Kenya. But by the end of colonial rule, although post-colonial governments such as Uganda rejected the recommendations and provisions of the EARC, they never made alternative policies to promote customary land tenure and distribution systems. That in itself, fuelled more dissatisfaction post-independence.

The Ugandan Public Land Act of 1962 was also not much different from the colonial EARC. For instance, section 22 (1) of the Act stipulated that the government 'shall not be prevented from making a grant in freehold or leasehold of public land . . . merely by reason of the fact that such land or any part thereof is occupied by persons hiding under customary tenure' (Public Lands Act 1962). As the protectorates had right over lands rather than the customary land tenure system, so also did the post-colonial governments. The colonial policies on land in Uganda have, and continue, to

effect land ownership and distribution in the country. Even though this arrangement was altered by the Public Land Act (Cap 21), it never really gave full ownership of land to indigenous peoples as the communal customary land tenure system in pre-colonial Uganda (Mugambwa 2007). This colonial land policy in Uganda could also be held responsible for Idi Amin's post-colonial land Reform Decree of 1975 which declared all lands in the country as public property. Indeed, the 1975 Act stripped landowners of the protection they once enjoyed under the 1969 Public Lands Act. Even though the 1995 Ugandan Constitution vests land ownership on citizens, it however, has the exception of lands in the central region and urban areas (1995 Ugandan Constitution, Article 237 (1) & (3)).

In Kenya, at the arrival of European colonial masters, all vacant lands were declared 'Crown' lands and were sold to European settlers or foreigners at very favourable prices and conditions (Binswanger-Mkhize and Deininger 1995). Mosley (1983) records that Africans farmers on much of the lands then became known as 'squatters', indicating that they were not the original owners of those lands. As a result land became the rightful property of European settlers, rather than Kenyans. African land rights were limited to so-called reserves and Africans were prohibited from purchasing lands outside these reserves. The 1918 Resident Native Labourers Ordinance (RNLO), for instance, stipulated that tenants had to offer 180-days of labour service per year to their landlords at a very low rate (Kanogo 1987; Binswanger-Mkhize and Deininger 1995). A similar process occurred in Malawi, where over fifteen per cent of total arable lands (over 1.5 million hectares) was given to European colonial settlers.

Nowhere in Anglophone Africa was the land allocation disparity between Africans and Europeans more pronounced than in South Africa. Indeed, the 1870 Transvaal government allocated only a few parcels of land to African reserves – far less than a hundredth of the land allocated to the whites (Bundy 1979). And as Hendricks (1990) observed, the Glen Grey Act (1894) restricted African ownership of land in the reserves to no more than three hectares and placed a ban on the sale, rental and sub-division of land to ensure that a class of independent African small holders would not surface.

In colonial Zimbabwe, Palmer (1977) posits that only lands in remote areas and with low fertility were reserved for Africans. This meant that the urban and more developed parts, including those highly fertile lands, were reserved for the colonial masters. In Northern Nigeria, as was the case in most other parts of the country, lands were allocated to European settlers by the caliphate government. The amount of land allocated to each settler, Binswanger-Mkhize and Deininger (1995) claim, depended on the number of slaves each settler owned – the more slaves a settler

had, the more land was allocated to him.

Colonial penetration in Anglophone Africa has led to a high degree of land concentration literally falling into the hands of European settlers, displacing African populations to less fertile lands or rural areas. So much so that even in areas with a limited number of Europeans, the European system of private property rights was introduced to replace the existing African communal ownership rights (Griffin, Khan and Ickowitz 2002). Griffin et al. (2002) posit that this practice of displacing indigenous landowners and taking over by a higher authority (usually the state), continued even after independence and effected the land tenure system during subsequent autocratic and democratic governments in Anglophone Africa.

To date, the colonial structure of land ownership and distribution continues to affect land issues in Africa and specifically in Anglophone Africa. In South Africa, for instance, there is a growing challenge to attempts to commercialise land. This is demonstrated by the widespread leasing and sale of lands to foreign governments and companies for commercial activities (Hall 2011). The same pattern is present in most Anglophone African countries including Nigeria, Kenya, Ghana, and others. This is an offshoot of the colonial land distributive system that has continued to impact land policies in post-independence Africa, raising questions about the continued survival of colonial structures, laws and images. Colonial administrators distributed lands at their own discretion and most post-Colonial African governments simply assumed the colonial role of managing state-owned land. Indeed, Cotula (2012: 670) argues that 'land remains state-owned . . . particularly in Africa . . . the state retains a central role in making land and natural resources available to private operators'. This situation has resulted in widespread land grabs with the active connivance of African leaders who received gratification for such sales and efforts. As Leahy (2009) argues, the acquisition of large landholdings by foreign actors can be described as a kind of neo-colonial practice. Overall, the colonial impact on land issues and discourse continues to remain potent and undeniable. While its benefits or otherwise has continued to elicit scholarly debate, the fact is that post-colonial states in Anglophone Africa have been unable to dismantle the colonial land legacies and fashion an alternative framework to address the challenges of land management in Africa, especially in the age of globalization.

Contemporary Issues and Challenges in Land Management

Most African economies hinge on agriculture and so depend on the availability, fertility and usage of land (Mabe et al. 2019). While land was seen as an almost inexhaustible asset in Africa, the

tremendous population growth, coupled with the development of a land market, has increased the competition for land (Quan et al. 2014). Given the scarcity of and competition over land, any attempts by governments to intervene in the distribution of land is bound to produce winners and losers (Collins and Mitchell 2018). In recent times, questions surrounding land grabs, land concentration, and land rushes have become burning issues in Anglophone Africa. For example, the concentration of fertile land in the hands of the white minority is an ongoing concern in South Africa and calls for expropriation featured prominently in the 2019 national elections. In Zimbabwe, the 2000 'fast track' land redistribution process gave access to land to many black Africans but without the commensurate increase in productivity and wealth. In fact, the policy has resulted in widespread poverty and economic stagnation with dire consequences for democratic rule — that is until a new government came to power in 2017[1]. In Nigeria and Ghana, an increase in farmer-herder clashes, land dispossession, and government claims on land has resulted in preventable loss of life and stunted economic growth. The situation in other Anglophone African countries is not much better. And yet all over Africa, the land question has become central to the expectations and hopes for a better life.

The widespread land grabs in Africa have been described as a neo-colonial push by foreign companies and governments to annex Africa's key natural resources (Hall 2011). By 2009 seventeen companies were producing biofuels in Ghana. According to Schoneveld et al. (2010) these companies collectively controlled more than a million hectares of land, with over 730 000 ha in Northern Ghana alone. As Acheampong and Campion (2014: 4588) noted 'the current land grab by corporations for the large-scale and export-driven expansion of biofuel production has ominous implications for local livelihoods in Ghana'. In fact, a study conducted by Mabe et al. (2019: 364) in several Ghanaian districts demonstrated that 'food security index, economic security index, sanitation security index, water security index, health security index, shelter security index and social security index for household living in communities without land acquisition is significantly higher than that of their counterparts in communities with large acquisition'. Land grabbing emphasises cash crop and biofuel production primarily for foreign markets. To support

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1 The Zimbabwean Land reform has been highly controversial. It is a historical fact that the initial effect was widespread poverty and that the 2000 'fast-track' land reform led to the migration of millions of Zimbabweans to neighbouring countries. However, recent studies (Nyawo 2014; Hanlon et al. 2010) have shown a substantial increase in the livelihood of new farmers who benefitted from the land reform process. Moreover, the levels of agricultural productions are slowly returning to the levels of the 1990s as small farmers are building up capital and hiring more labour.

these priorities the argument has been that indigenous landowners underutilise their rich land resources and, as such, foreign investors would add more value to a country's GDP if they could claim such lands for commercial purposes (Minaud 2015). For example, studies by Dorner (1972) and Harrison (1987) argued that the insecurity of tenure under indigenous tenure systems results in a lack of soil-improving investments. The underlying argument is that large corporations could use their financial capital to develop profitable commercial operations. As Leahy (2009) cautions, land grabbing results in rich countries buying poor countries' fertile soil, water, and sun to ship food and fuel back to developed nations and leaving local communities with impaired livelihoods. In the South African case, for instance, there has been a rush for land to produce biofuel by the Chinese, Korean and the Western governments. Needless to say, this displaced local people who also forfeited their land use rights (Hall 2011). This practice threatens peasant livelihoods: small farmers are being expropriated and forced into cheap labour (Grain 2007). As mentioned earlier, in Nigeria, the rush for crude oil and the subsequent displacements, loss of livelihoods and criminality have threatened local inhabitants and accounted for an incalculable number of deaths (Olayiwola and Adeleye 2006). Indeed, the Niger Delta region has been ridden by violent conflicts between foreign oil corporations and local minority ethnic groups. Similar occurrences have also bedevilled Kenya, Ghana, and several other African states and many African states have cited the land issue as a key threat to the survival of their democratic systems.

The debate on land grabs cannot be divorced from its gender dimension. Indeed, as Mutopo and Chiweshe (2014) have argued, women are increasingly losing access to land and clean water. These trends are particularly acute in Ghana, Zambia and Zimbabwe such that the nutritional status, well-being and human dignity of women is acutely affected. And in most of Anglophone Africa women are perceived as responsible for the food security of their household (Moyo et al. 2016) and logically their access to land for food production is absolutely crucial for the well-being and even the survival of their families.

Most of the land in Zimbabwe is administered under customary land tenure laws. But because of the prevalence of patriarchy under this system, women tend to access land through their male relations. In their study on the impact of ethanol production on women in Chisumbanje, Zimbabwe, Matupo and Chiweshe (2014) reveal that the women of this community have lost not only their access to prime land, but also access to medicinal herbs because the local fuel producing company has fenced in their commercial enterprises. Access to water has also became difficult when water sources are on fenced-off company land to protect the biofuel plant's irrigation system.

Over the past fifteen years international organisations and governments alike have increasingly shifted their policy focus from the privatisation of land. They have promoted titled land and endorsed legal pluralism to embrace a more prominent role for customary authorities in governing land (Collins and Mitchell 2018). But there is growing evidence that the shift from state-led to 'community'-led land reforms has even deepened the inequality of access and increased conflict and competition over land, sometimes resulting in rifts both between and within ethnic groups (Amanor 2001; Basset and Crummey 1993; Berry 2002; Chimhowu and Woodhouse 2006; Juul and Lund 2002; Peters 2004). As Peters (2009: 1319) argues, 'many existing customary or local sets of land tenure embody considerable inequality, intra and inter-group conflict, illegal sales by traditional leaders and appropriation for private use by representatives of the state'.

While both Ghana and Tanzania are often cited as models of land reform success, Collins and Mitchell (2018) argue that both countries are still struggling with deep-rooted problems in devolving land governance to traditional authorities. Consider for example the controversial role played by traditional authorities in Ghana's Western region. Collin and Mitchell (2018) point out that many chiefs sold communal lands to migrant populations during the 1970s and 1980s –– often in clear contravention of 'customary' law. By the mid-1980s, the host-migrant relations arrived at a breaking point and chiefs attempted to reassert their control over the land ceded to migrants (Boone and Duku 2012). To appease his people the Ghanaian king ordered migrants to stop cultivation all together, but many disregarded his order (Boni 2005) and '[v]iolence ensued as Sefwi chiefs sent villagers to dispossess strangers of what the former considered land illegally occupied' Boni (2005: 118-119). Even though the tension did not match that of Kenya's Rift Valley level of violence of the 1990s[2], it certainly exposed some of the shortcomings of devolving land governance to traditional authorities when such authorities are not held accountable (Collins and Mitchell 2018). Adding to an already complex issue Boone (2012b) argues that Ghanaian officials have generally been unwilling to intervene in chiefly affairs as chiefs often act as brokers of votes at the local level. Malawi has not been immune to these types of conflicts either. As one of the poorest countries in the world Malawi's economy largely relies on agriculture[3], and with its growing population, the pressure on, and value of, land is rapidly increasing (Peters and Kambewa 2007). The consequent tensions over

2 According to Boone (2012a), conflict over land rights and access in the Kenyan Rift Valley Province resulted in the death of 500 people and the displacement of over 500 000 people. A similar conflict occurred after the 2008 elections, with a death toll estimated to be as high as 5 000.

3 Tobacco alone contributes to over half of the value of exports in Malawi (Peters and Kambewa 2007).

land rights and land particularly between 'locals' and 'newcomers'[4] are inevitable.

It is undeniable that government-led land reforms are necessary to ensure the socio-economic development of Africa and improve the livelihood of rural communities. However, all land reform processes will always produce winners and losers. The Botswanan case illustrates this quite well. Like Uganda, the majority of the land in Botswana was expropriated during colonial times to create 'Crown' property (Kalabamu 2019) and the majority of the land in Botswana became state property after independence. This encouraged and accelerated the redistribution process and by 2013, approximately 71 per cent of the land had been redistributed as tribal land (Government of Botswana 2015). Yet despite these laudable results land shortage remains a persistent issue for minority tribes (Kalabamu 2019). Ng'ong'ola (1997) notes that no land has been allocated to the Basarwa people after the colonial period. The have instead experienced eviction from the Central Kalahari Game Reserve and are prohibited from subsistence hunting and gathering in state-owned land designated as national parks (Kalabamu 2019). Botswana has recently introduced a third Land Policy, but as Kalabamu notes, the policy is completely silent about land rights for minority groups.

Another cognate major issue with such redistributive processes is that a government-led land-allocation policy can potentially be used as an instrument of distributive politics. For example, Boone (2012a) notes that all of Kenya's government, both colonial and postcolonial, have distributed land access rights strategically to their political supporters and to engineer supportive political constituencies. As Southall (2005: 144) summarises, 'land was no longer allocated for development purposes but as a political reward and for speculative purposes'. Ultimately, these politics of distribution and redistribution created a situation of gross inequality both between and within ethnic groups (Boone 2012a). The growing inequality and the politics of redistribution in Kenya eventually undermined the legitimacy of the state itself.

As mentioned earlier, gender inequality often results from customary systems of land governance. Many feminist scholars (Mackenzie 1990; Whitehead and Tsikata 2003) have argued that customary practices can be highly discriminatory against women. Land inheritance customs, for example, remain highly patriarchal making a gender-equal land reform programme highly fraught.

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4 As Peters and Kambewa (2007) note, 'newcomers are also described—in what is a great insult—as serfs (akapolo) since they are said to descend from people who were taken captive in small-scale wars or given as pawns or sold into slavery by their own people. While most of the time the histories of groups interfere little in daily life, the intensifying competition for land has drawn the past into the forefront of dispute'.

The customary rules of inheritance and ownership are rooted in a desire to protect community land. As Isinika and Mutabazi (2010) show the rationale behind rules restricting women's land rights is that doing so will prevent clan land from changing of hands. This results in deep social attitudes against women ownership of land. Despite some constitutional provisions for gender equality, Baymugisha (2013) notes that the reliance on customary practices continues to keep women 'locked out' of land ownership. The case of Malawi offers an intriguing contrast. In Malawi, land rights can be transferred along matrilineal or patrilineal rules, depending on ethnic groups (Takane 2008). While patriarchy prevails in northern Malawi, southern Malawi is predominantly matrilineal. As Takane (2008: 274) notes, in Malawi's matrilineal societies, '[a] husband has no decision-making power regarding the transfer of his wife's land rights. Upon divorce or his wife's death, a husband is expected to return to his natal village and loses the land-use rights in his wife's village.' In patrilineal societies, the land rights are transferred to the wife upon the husband's death provided that the bride wealth was paid upon marriage. A divorced woman, however, must return to her village without her children.

Tanzania presents a similar yet different story. Tanzania's 1999 land reforms vested the authority on land distribution in the hands of local elected bodies rather than chieftain authorities (Collins and Mitchel 2018). The Village Land Act (No. 5) further specifies minimums for gender representation in these elected bodies (URT 1999: Sec. 60). As per recommendation by the World Bank, these bodies govern and adjudicate land on the basis of local customary practices (Collins and Mitchell 2018) but customary practice dictates that the Baraza — the Village Land Council — is the exclusive preserve of men (Collins and Mitchel 2018). As one interviewee (quoted in Collins and Mitchell 2018: 125) puts it, '[t]his is an exclusive domain of men making decisions, then you are forcing the women to come in, they're not supposed to be there, so we'll make sure that they keep quiet while we talk and make decisions!'. Despite formal legal arrangements women remain excluded from the decision-making process at the local level. The Tanzanian case illustrates a crucial point: achieving gender equality in land-related questions will require much more than a formal commitment to equality and statutory laws; it will require a change in social attitudes. The Kenyan case offers interesting solutions to the problem of gender inequality in land tenure. As Moyo et al. (2016) noted, Kenya's 2010 constitution introduced a range of measures to strengthen women land rights. The reform that was introduced in the revised constitution included new measures on ownership

and inheritance laws to guarantee equal treatment with men and introduced gendered quotas[5] for elected and appointed offices. This small victory for gender equality has been credited to the incessant activism of civil society groups such as Economy and Rights of Women, the Kenya Land Alliance and Warembo ni Yes. In Uganda, the Land Act (1998) explicitly forbade gender-based discrimination. Section 27 of the Ugandan Land Act states that '[a]ny decision taken in respect of land held under customary tenure, whether in respect of land held individually or communally, shall be in accordance with the customs, traditions and practices of the community concerned, *except*[6] that a decision which denies women or children or persons with a disability access to ownership, occupation or use of any land or imposes conditions which violate articles 33, 34 and 35 of the Constitution on any ownership, occupation or use of any land shall be null and void.' Section 39 of the Act also prohibits any land transaction without spousal consent. These measures have considerably strengthened women's land rights and security of tenure.

Access to safe drinking water remains an enormous problem in Sub-Saharan Africa; 44 per cent of the regional population lack access to clean water (WHO/UNICEF 2004). While the issue of water accessibility in Anglophone Africa is too complex to be discussed in great detail in this chapter, it is nonetheless intertwined with the question of land rights and land tenure and therefore deserves a short discussion. A myriad of contemporary studies that suggest the solution to water access might lie in the domains of property rights and land tenure (Al-Hmoud and Edwards, 2004; de Soto 1989, 2000; Field 2005; Payne 2002; Satterthwaite, McGranahan, and Mitlin 2005; Sida 2004; World Bank 2004). In a study comparing access to clean water in Zambia and Botswana, Sjöstedt (2011) has shown a positive relationship between the security of tenure and higher water coverage level because secure property rights tend to stimulate investment in water management and irrigation systems. Access to water also carries a gender dimension. In their study on the gender land relations and power dynamic in Inanda, South Africa, Bob et al. (2013) suggest that women were much more likely than men to indicate that access to sufficient water is concern. The Chisumbanje case study discussed above provides yet another example of the gendered dimension of the issue of water accessibility.

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5 Under Kenya's 2010 constitution, a third of all government offices are reserved for women. Furthermore, new inheritance and ownership laws have been introduced to end the widespread discrimination against widowed, unmarried and divorced women. By 2016, the laws were not yet implemented. As such, a proper assessment of their impact is difficult at this stage.
6 Emphasis by the authors.

Challenges of Resolving Land Issues

Given how central land is to livelihood, survival and poverty eradication of the vast number of Africans, especially women, it is imperative to examine the challenges that underpin the issues highlighted in this chapter. Several factors have been earmarked as posing serious threats to the resolution of land issues in Anglophone Africa, some of which include:

1. **Failures of African countries to pursue policies that promote increased agricultural productivity and engage in meaningful reforms**: This has been a core factor affecting efforts geared towards combating land issues in Africa, particularly Anglophone African countries. Most governments have failed to recognise how pivotal land is to economic development and democratic sustenance. For instance, since the period of the oil boom in Nigeria, the focus has largely shifted away from land use and agricultural activities to oil exploration and related activities. For Kenya, Ghana, Zambia, Tanzania and most of Anglophone African countries, especially Zimbabwe, the mismanagement of land issues has increased poverty, resulted in economic meltdown, alienated a large segment of the indigenous population, and truncated democratic rule; aspirations have only led to modest land reforms (Pedersen 2016; Yeboah and Shaw 2013; Cliffe, Alexander, Cousins and Gaidzanwa 2011; Uwakonye and Osho 2007; Dashwood 2002).

2. **Dependence on food imports and production deficit**: Most Anglophone African counties do not produce sufficient food and their food security is abysmal. They rely heavily on food imports from Europe and other Western countries. This has created a legitimacy crisis for many of these governments but despite this they see no need to address the existing land crisis and contentions. As Nelson Mandela (quoted in Bratton and Mattes 2001) once said, 'Freedom is meaningless if people cannot put food in their stomachs'. Yet, save for South Africa, virtually all Anglophone African countries fall in the category of huge food importer while not making judicious use of their land and its resources (Cohen and Clapp 2009).

3. **The continuing scramble for Africa's land resources**: The continual desire of states — particularly those in the West and far East — to access Africa's land resources poses a serious challenge to combatting land issues in Anglophone Africa. The World System Theory posits that the unequal distribution of economic and political power between developed and less developed countries results in a dependency between different regions of the world (Vanolo 2010). This is the basis of the core-periphery metaphor which refers to circulation of economic flows from the periphery to the core and the flow of economic surplus from

the core to the periphery. The term periphery emphasises both the economic marginality of some states and the need to investigate the spatial interactions between geographical regions. Considering that most African states are locked in a core-periphery relationship with these states, it becomes quite difficult to rebuff their proposals without harming the African state's national interests. Land grabbing was a term coined to qualify this scramble for Africa's land resources. To date, while there are arguments for a land grab, Anglophone African countries have yet to devise concrete means of curbing the scramble (Grain 2012; De Schutter 2011).

4. **Endless procedures:** In most African countries, many constitutive and regulative institutions suffer from massive functional deficits. Land rights are most often not enforced and are characterised by fragmented or overlapping legislation and legal pluralism that confuse the issue of property rights and spur land-ownership conflicts. Land-administration authorities dealing with land registration, land-information systems, land-use planning and land development lack trained staff, technical infrastructure and financial resources. Across Anglophone Africa administrative services are generally over-centralised and jurisdictions are often not clearly assigned or are overlapping, impeding cooperation and coordination. Consequently the little available and mostly incomplete or isolated data on land ownership and land use has been gathered by diverse non-cooperating institutions making its proper use difficult or even impossible. The result is endless procedures and low levels of implementation.

5. **Gender inequality:** Gender inequality remains a tremendous obstacle in Africa. Formal commitments to gender equality will not be enough if they are not driven by changes in social attitude. While education about legal rights is key to empower women on the continent, the Kenyan example also highlights that civil society organisations can and must use new technologies to further the reach of their efforts to foster gender equality.

The sum of these challenges has resulted in disputes, conflicts, and apathetic citizenry uninterested in democratic process and rule. This has continued to threaten democratic sustainability in these countries.

Addressing land management issues: Projections for the future

To begin addressing land management issues in Anglophone Africa governments need to recognise that land and its challenges are at the heart of their sustainable development, and any solution

needs to consider the following five key aspects: land management among contending ethnic groups claims; land administration in terms of judicious land resource management to develop larger segments of the population; land reforms that reflect customary land practices as well as their social and economic implications; the gendered land relations and power dynamic; and, (re) distributive policies that aim to include all individuals and groups that make up each respective society.

Sharing data and learning from each other would be a feasible beginning. No matter how difficult concerted action might seem amid the chaos and confusion of these land conflicts, land questions must be managed — and the sooner the better. Indeed, unresolved land issues smoulder and can ignite at any time. The longer these issues are left unresolved the more likely political actors will use land (as an issue) to advance their personal political interest and objectives. Unfortunately, there is no universal solution and each country will have to tailor their responses to appreciate their particular local, regional and national context as well as their supranational political, socio-economic, cultural and power-related frameworks/conditions (AUC-ECA-AfDB Consortium 2010; Kasanga and Kotey 2001). Addressing the land grab question within an African framework and in a holistic manner would help achieve an effective land policy and its management that promotes inclusion, sustainability and viability on the continent.

Conclusion

Land signifies life and wealth for Africans; its significance on humans and human history cannot be overemphasised. Across the sample countries people's attachment to land has created clans, identities and memories that have shaped politics, governance and democracy. This has made land an emotive issue that has spawned other issues in pre, during, and post independent Africa. The issues range from land tenure and land management to land expropriation, land concentration, and land reforms. Each of these issues can break or make democracies. From Nigeria to South Africa, to Ghana, Botswana, Tanzania, Zambia, Kenya to Zimbabwe and other Anglophone African countries, land has been a major factor shaping conflicts and peace, autocracy and democracy, poverty and wealth, and establishing good and bad governance. Land has become an issue that could cause trepidations or optimism in Africa's quest for sustainable democracy and development (Afolabi 2018).

This chapter has established that land is central to boosting productivity, alleviating poverty and eradicating hunger in Anglophone African states. It has also been established that land issues are

very sensitive, and its handling could either result in crisis or enhance peace –– this applies to the majority of Anglophone African countries. However, the Botswana case shows that land reforms are only a matter of articulating reforms that pivoting around inclusion – reforms that synchronise the customary land tenure with individual access to land while still appreciating economic, social and political balancing.

This chapter has revealed that land issues have local, national and international dimensions and if left unresolved, these issues can be exploited by political entrepreneurs and ethnic champions alike. But because most of post-independent Anglophone African regimes are direct beneficiaries of land ownership there is little political will to institute effective and efficient land use management. In the same vein there is little or no political will to engage in inclusive and productive land management strategies that will benefit the mass of the people in these countries. The net effect is to create situations that are inimical to development and democracy. Even when constructive land policies are made, for instance in South Africa and Botswana, such policies are not very effective because of the composition of the social groups and the wide economic gap between the haves and the have nots. Tellingly, these affect the politics of democracy in each of the case study countries. Nigeria and Kenya are some examples where political parties appeal to ethnic identities and are based on shared land configuration. Politics determines who controls and who benefits from key resources. The way land issues are addressed in each country and collectively tend to determine the success or otherwise of democracy in Anglophone Africa.

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