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“Property and Political Order:
Land Rights and the Structure of Politics in Africa”

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Property and Political Order:
Land Rights and the Structure of Politics in Africa

by

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PROPERTY AND POLITICAL ORDER:
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Preface	6
1. Introduction:	
Property Regimes and Land Conflict: Seeing Institutions and their Effects	8
<i>An Institutional Analysis of Land Tenure Regimes</i>	
<i>Research Design and Conceptual Innovations</i>	
<i>Structure of the Book and Overview of the Arguments</i>	
<i>Significance of the Study</i>	
 PART I. PROPERTY RIGHTS AND THE STRUCTURE OF POLITICS	 29
2. Land Tenure Regimes and Political Order in Rural Africa	
<i>Market-based and Authority-based Property Regimes</i>	
<i>Property Regimes and Political Structure in Rural Africa</i>	
<i>The Neocustomary Land Regimes</i>	
<i>The Statist Land Regimes</i>	
<i>Postcolonial Political Order and Authority-Based Controls over Land</i>	
3. Rising Competition for Land:	
Redistribution and Its Varied Political Effects	71
<i>Rising Competition for Land</i>	
<i>Property-Rights Change: From Contracting to Redistributive Politics</i>	
<i>How Land Regimes Structure Local Political Arenas: A Model</i>	
<i>How Land Institutions Structure Redistributive Conflict: Hypotheses</i>	
<i>Evidence, Findings, and Counterarguments</i>	
 PART II. ETHNICITY:	
PROPERTY INSTITUTIONS AND ETHNIC CLEAVAGE	114
4. Ethnic Strangers as Second-Class Citizens	
<i>Ethnic Hierarchy in Western Burkina Faso</i>	
<i>Expulsion of Aliens from Ghana's Cocoa Region</i>	
<i>Land Tensions in Western Ghana</i>	
5. Ethnic Strangers as Protected Clients of the State	
<i>Southwestern Côte d'Ivoire: Strangers Imposed "by force!"</i>	159
<i>Kenya's Rift Valley Settlers</i>	
<i>"Forced Cohabitation" in Eastern DRC</i>	

PART III. POLITICAL SCALE:

PROPERTY INSTITUTIONS AND THE SCALE AND SCOPE OF CONFLICT	219
6. Land Conflict at the Micro-Scale: Family <i>Western Kenya: Kisii</i>	233
7. Chieftaincy: The Local State as Arena of Redistributive Conflict <i>Northern Cameroon: States within the State</i> <i>Conflict Repressed within Chieftaincies: Periurban Kumasi, Ghana</i>	247
8. Land Conflict at the National Scale <i>Rwanda</i>	284
PART IV. MULTIPARTY COMPETITION: ELECTIONS AND THE NATIONALIZATION OF LAND CONFLICT	315
9. Winning and Losing Politically-Allocated Land Rights <i>Kenya since 1991-2010</i> <i>Côte d'Ivoire: 1990-2010</i> <i>Rwanda, 1991-4</i> <i>Eastern DRC, 1990-4</i>	324
10. Zimbabwe in Comparative Perspective <i>Elections and Expropriations, 2000-2010</i>	371
CONCLUSION: PROPERTY REGIMES IN POLITICAL EXPLANATION	387
<i>Property Regimes in Comparative Politics</i> <i>Economic Institutions and Democracy</i> <i>Patrimonialism vs. Bargained Institutions</i> <i>Ethnicity as a State Effect</i> <i>Ethnicity and Class Politics</i> <i>Scale Effects in Political Explanation</i> <i>Rising Pressure on the Land</i>	
Appendix: Land Politics cases and sources (<i>incomplete draft</i>)	---
Reference List	---

List of Figures, Tables, Maps

Figures

- 1.1. Structure of the Argument*
- 2.1. Tribal Territories in Colonial Zambia (c. 1935), from van Binsbergen*
- 2.2. The Chiefdoms of Masisi, Kivu, Belgian Congo (1954), from B. Mararo*

Tables

- 2.1. Land Under Private Title (est.), by country*
- 2.2. Settlement Schemes, Examples*
- 3.1. Rural Population and Population Density over Time*
- 3.2., Smallholder Land Tenure Regimes: Expected Forms of Land-Related Conflict (with high levels of competition for land)*
- 3.3. Land Tenure Situations and Cases, typologized*
- 3.4. Statist Land Regime Cases*
- 3.5 Neocustomary (Chiefly) Land Regime Cases*
- 3.6 Neocustomary (Lineage, Family) Land Regime Cases*
- 4.1. Land Tenure Regimes and Ethnic Conflict: Case summaries*
- 6.1. Land Conflict Scale and Scope: Case summaries*
- 7.1 Changing Locus and Scale of Land Conflict in Ashanti Region*
- 9.1. Land and Partisan Politics: Case summaries*

Maps

- Map 1. Burkina Faso*
- Map 2. Ghana*
- Map 3. Côte d'Ivoire*
- Map 4. Kenya*
- Map 5. Eastern DRC*
- Map 6. Kisii, (not yet avail.)*
- Map 7. Cameroon*
- Map 8. Ashanti Region, incl. periurban Kumasi, Ghana (not yet avail.)*
- Map 9. Rwanda*
- Map 10. Paysannat Scheme (Paysannat de Muhero), 1978, Rwanda (not yet avail)*
- Map 11. Zimbabwe*

Of course the land question in sub-Saharan Africa has dominated the political arena for over two centuries. Land and land resources were central to the imperial conquest, the colonial settlement and the extractive economy, administered in terms of imported legal frameworks which claimed to extinguish rights held under local customary law. Whether the purpose was agriculture, mining, administrative control or simply trade, land and property rights became the subject of fierce competition and conflict and, in most cases, were at the root of the freedom struggle. Under colonialism (and apartheid), indigenous agricultural systems and technologies were stultified and social structures, themselves dependent on control over land and natural resources, severely weakened by the purge or co-option of our traditional leaders. For up to four decades after independence, issues of land and property rights have remained at the centre of contemporary politics in the region. Yet, with the exception of a few states, we have been reluctant to confront the land issue.

—Permanent Secretary, Kenya's Ministry of Lands and Housing,
Eng. E. K. Mwongera.¹

¹ Keynote Address: ACT, Land Tenure and Conflict in Africa, Nairobi 2004: 4-5.

² Huggins, Kumugi, et al. ACTS, 32.

³ By contrast, a 1970s view—reflected, for example, in the *Cambridge Encyclopedia of Africa* (1981: 390)—was that communal conflict and mobilization are phenomena of the *urban* areas.

PREFACE

Although analysts of African politics have focused mostly on the cities, civil conflict has played out mostly in the countryside. This pattern has become much starker in the past two decades. The 1990s and 2000s have also drawn observers' attention to the role and weight of rural populations as voters in national elections. These shifts underscore the pressing need for tools to understand political dynamics in rural Africa, home to 60-70 percent of the continent's population but still largely indecipherable to most political analysts.

Drawing on literatures in the new institutional economics, property rights, and the political-science institutionalisms, this book proposes a model of *political and economic structure* in rural Africa, how it varies at the subnational level, and how it shapes subnational- and national-level outcomes. In the countryside, local political arenas are defined largely by land tenure regimes, which we define as property institutions (or rules) governing landholding and land access. The shape and political effects of these property regimes are visible, we argue in the *political expression* of land-related conflict. These same property regimes go far in structuring local patterns of social stratification and hierarchy, ethnic conflict, electoral mobilization, and representation in the national political arena.

Land-related conflicts are the empirical grist for this study. They are important substantively: they are often the stakes or the stimulus in larger conflicts that are shaping the course of African nations. A group Nairobi-based observers stated that "land issues are almost always part of the conflict," and they are correct. In agrarian society, land tenure relations go far in defining relationships between individuals, groups, markets, and the state.² Land-related conflict is important in this study for purely analytical reasons as well. It is a phenomenon that manifests in a wide variety of observable instances of rural political expression. This allows us to probe the possibilities and limits of our argument, which attributes differences in the

² Huggins, Kumugi, et al. ACTS, 32.

political expression of land-related conflict to variation in local property regimes and in how these connect to political institutions and processes at the national level.

Approximately thirty land-related conflicts, all played out in subnational (district level, mostly) political arenas, form a broad empirical base for this study. About a dozen cases (from eight countries) are presented as case studies in the book's main chapters. These are based on secondary literature, grey literature, field research including farm-level interviews, newspaper analysis, and research in national archives.

1. INTRODUCTION

PROPERTY REGIMES AND LAND CONFLICT: SEEING INSTITUTIONS AND THEIR EFFECTS

Arable land has long been under considerable social pressures.
Control over land has served as an important component of
control over people.
Fisiy, 1992:18

Democracy's prospects may lie not in the city but in the countryside.
Munro, 2001: 311.

Policy analysts, academics, and journalists point to the increasing incidence and importance of land-related conflict in sub-Saharan Africa.³ After four postindependence decades of relative political calm in most of rural Africa, rural districts and provinces in many countries now roil with land-related tension, sometimes expressed in politically charged ways. Tension arises from land scarcities and growing competition over land access, the assertion of citizenship and ethnic claims linked to land entitlements, and, in some cases, enclosure and the growing exclusiveness of land rights.

In some countries, land-related conflict has exploded onto the national political stage. In Kenya, over 300,000 people were displaced and some 1,500 were killed in the violent conflict over land rights in the 1990s. Almost as many were touched by land-related violence in 2007 and 2008. Land-related conflict fueled a political conflagration in Côte d'Ivoire that tore the country

³ By contrast, a 1970s view—reflected, for example, in the *Cambridge Encyclopedia of Africa* (1981: 390)—was that communal conflict and mobilization are phenomena of the *urban* areas. See Wiseman 1986. On the current era, Deininger and Castenini 2004; UNECA 2004; Toulmin and Quan 2000, Berry 2002, IIED Feb. 2004, Peters 2002, 2004, forthcoming. Kalyvas (2007:422) notes the rural dimension of contemporary civil wars but does not connect this to agrarian structures or conflict.

in two in 2003 and paralyzed attempts to reconstitute order through the electoral process. Land conflict also fueled the Mano River Basin civil wars in Liberia and Sierra Leone, war and widespread violence in the villages of the eastern Democratic Republic of Congo, and the war in Darfur, Sudan. In Zimbabwe, land expropriation and reallocation has been at center of the Mugabe regime's desperate struggle to remain in power since 2000.

Land-related conflicts also find expression in ways that fail to capture international headlines, or that play out in more local, more systemic ways. In Cameroon, local political authorities expel "non indigenous" farmers from localities so that ethnic insiders can take their land, and prevent them from voting. Across the Sahel, the incidence of farmer-herder conflict has increased steadily over the past two decades. In parts of Ghana, chiefs who sell off communities' land can stoke protest against the abuse of political authority for private gain.

Africa's rising tide of land-related conflict is phenomenon that is very poorly understood. It defies modernization theory and theories of economic development, which predicted that land politics would decrease in salience over time. Levels and patterns of land conflict do not bear any systematic correlation to rates of demographic increase, the prevalence of land scarcity, national regime type, or legal traditions imported from the colonial metropolises. Political science has just begun to notice this phenomenon, but has yet to offer conceptual or empirical mapping of its character and contours or to extract its broader implications for our understandings of African politics.

The growing prevalence and intensity of land-related conflict is itself a phenomenon that reveals not only large gaps in our understanding of contemporary political dynamics, but also the inadequacies of existing theories of state structure, democracy and political participation, and property institutions in Africa.

Much discussion of land conflict conveys the impression that natural-resource disputes in Africa stem from the weakness (or absence) of state intervention in rural property relations. Jeffrey Herbst's *States and Power in Africa*, for example, argues that that central state authority

barely penetrates rural Africa. From this vantage point, land conflict seems to lie outside the sphere of formal politics and “beyond the reach of the state.” Yet in many cases, this is clearly not so. Some of the most extensive episodes of violent conflict over property rights have happened in the commercial farming areas of states such as Côte d’Ivoire, Kenya, and Zimbabwe, all of which have long histories of deep state involvement in the ordering and reordering of rural property relations. Highly politicized land conflict has been central in recent political histories of some of the richest and most intensively governed regions of Africa’s strongest states. What explains this apparent paradox?

Rising tides of land-related conflict also defy some basic expectations about transitions to democracy. The return to multipartism was supposed to mitigate social conflict by opening channels for peaceful dispute resolution. Yet in some countries, this very shift opened the door to the highly political and partisan expression of land grievances, culminating in extensive rural violence, as in Côte d’Ivoire, Zimbabwe, and Kenya. Why does the prospect of regime turnover sometimes heighten land-related tensions? Why does intensified electoral competition sometimes inflame land-related conflict?

The scale and scope of land conflict today also confounds some basic expectations about Africa’s “transition to the market.” Since the mid-1980s, expert opinion has predicted that rising demographic pressure and land values would propel the gradual, bottom-up transformation of Africa’s customary land rights into something more akin to private property in land. Although this expectation has held up in some cases, in others it has proved to be dead wrong. Demographic increase is sometimes a factor that contributes to the kinds of violent and highly politicized conflict over land rights described above. More often, though, it feeds low-level tensions between and within communities, stoking struggles over authority, entitlement, and the legitimacy of the market. Why is the development of private property in land turning out to be such a deeply *politicized* and contested process?

These questions underscore the need for broader, more comparative, and more political theories of land tenure regimes and rural conflict. Africa's land regimes are far more varied and politicized than most existing analysis has recognized.

Connections between land politics and the wider questions of interest to political scientists have gone largely unnoticed in comparative work on Africa. This is largely because the architecture and political character of *rural property regimes* has remained mostly invisible and untheorized in existing work. This book aims to remedy these deficiencies. This analysis shows how government in Africa is grounded in rural property institutions that create relationships of political dependency and authority, define lines of social cooperation and competition, and segment territory and delineate jurisdictions. These structures shape collective action and the content of politics in rural Africa, including the politics of land. They constitute the structural underpinnings of most African regimes, which rest on rural acquiescence (and sometimes on rural mobilization) for their political survival.

Contra theories that see land-related conflict as a sign of state failure, the analysis shows that the variations in patterns of land-related conflict that we have noted above are as much a result of state- building in these regions as a reflection of the absence thereof. Knowing where land tenure regimes create direct institutional linkages between landholding and partisan politics will provide much of the answer to questions about when land conflict does and or does not connect local constituencies to larger social coalitions, and to national-level electoral processes. And recognizing the politically- contingent character of property-holding in much of rural Africa is the first step to unlocking the puzzles of politicized responses to the growing commodification of land.

I. An Institutional Analysis of Land Tenure Regimes and their Political Effects

This book argues that African land tenure regimes can be understood as institutions, or complexes of institutions, that structure local political arenas and link rural populations to the state.

Following much of the work in the New Institutional Economics, I count both formal and informal institutions as “institutions,” and thus transcend the dichotomy between formal-legal and customary arrangements that underlies studies of legal dualism in African land regimes.⁴ Making visible this part of the architecture underlying state-society relations in these mostly agrarian societies undercuts the notion that modern African states are disconnected from their rural hinterlands, that rural social structure is uniform continent-wide (or unique in each locality), or that impersonal markets govern access to land.

Land tenure regimes are property regimes that define the manner and terms under which rights in land are granted, held, enforced, contested, and transferred. In all political economies, property rights lie at the confluence of the political-legal order and the economic order.⁵ As rights, they do not exist without third-party enforcement—like property rights everywhere, they establish a *political relationship* between the claimers of rights and the enforcer of rights, which, in unitary polities, is the state.⁶ As economic institutions, property rights are the cornerstone of relations of production: they govern the use of productive assets, and the distribution of the wealth so generated. Sociological traditions find the essential nature of property in this relational aspect: property rights are *social relations* concerning the access and use of things, including the land and land-based resources that sustain livelihoods and society for most of Africa’s

⁴ Greif (2007) sees institutions as formal and informal legal/social frameworks in which activity takes place. See also North 1981, 1990; Ostrom 1990; Knight 1992; Ensminger 1997.

⁵ As Anderson points out in Hann (1998, 46-47), a property regime, then, is the larger *system of rules* in which property rights per se are embedded: rules about classes of individuals or groups who have access to property rights; who can assign, transfer, enforce, or adjudicate rights; and the principles and procedures by which they can do so. In analyzing varieties of capitalism, Hall and Soskice (2001: 46) employ a notion of “regimes” as interlocking systems of complementary institutions—social, economic, political—that can structure interactions at macro, regional, and perhaps sectoral levels (or domains). Use of the term “regime” is consistent with the notion of institutional order proposed by Ostrom (1990, 50-51).

⁶ Joireman’s (2011) recent contribution to the analysis of rural property rights in Africa emphasizes this aspect of property.

population.⁷ In agrarian society, where socioeconomic life is organized around the use of land, land tenure regimes constitute an institutional template for socio-political organization.

In the land tenure regimes that are the focus of this analysis, political and economic rules overlapp and are embedded in each other, rather than formally separate, as they are in settings where impersonal markets govern access to productive assets, and where the liberal conception of the economy and the polity as autonomous spheres prevails. Because of this, we can conceive of land tenure regimes in these largely agrarian societies and local political arenas as *roughly isomorphic*, with the degree of correspondence between the two varying with the degree to which local populations actually depend on land access for their livelihoods.

Seeing African land tenure regimes as configurations of rules and structured relationships that are amenable to comparative institutional analysis is a major departure from theoretical precedent, and—as this analysis hopes to show—a powerful lens for reinterpreting structure and variation in African politics. Although social science is rich in studies of the sociopolitical dynamics of African land tenure regimes in particular places, we have lacked an explicit conceptual framework for describing how these land systems vary across space (and time) and how they fit into the larger institutional superstructure of national government. A general pass at the question could yield an answer that points to the “customary” nature of land regimes across most of sub-Saharan Africa, and to the important role of neotraditional authorities like chiefs, elders, land chiefs, in the allocation of land rights and the adjudication of disputes. Much work on this topic explores the lack of fit between customary land tenure in rural localities and statutory land law, and the ways that complex situations of legal dualism encourage actors to game the system to maximize their own situational advantage. Fine-grained studies of local practice often underscore, either implicitly or explicitly, the intricacy, variety, and even bewildering diversity of

⁷ By the 2008 World Development Indicators, rural population as a share of the national population dips below half in only eight of forty-five African countries (not counting the island states). These are Gabon, Republic of Congo, South Africa, Botswana, Liberia, Cameroon, Angola, and The Gambia.

local land regimes.⁸ At the limit, analysts may find the very notion of land tenure rules (or land "regime") to be oxymoronic in situations where land tenure practices are "shrouded in a dense field of competing claims and counterclaims around land rights, and embedded in complex local and 'hidden' histories."⁹

The present analysis departs from received analysis by proposing a schematic conceptualization of African land tenure regimes. It identifies these as political-economic institutions (or institutional configurations), specifies their politically salient features, and describes how they vary. Land regimes are defined as institutional orders that encode four critical aspects of local sociopolitical structure: property relations or rights, authority rules, citizenship rules, and territorial jurisdiction. Together, these elements define the political-institutional character of different land tenure regimes and make it possible to compare and contrast land regimes across space and time. The overarching argument is that these land tenure institutions go far in defining structure and variation in the character of local politics, government control over rural populations, and the integration of the rural areas into national political life. Evidence of these *political effects* is observable in *the forms of conflict* that arise from mounting competition over land. As land regimes vary, so, too, do forms of land-related conflict.¹⁰

This argument is important because land conflicts vary in ways that are of great interest to political science. They vary by whether and how ethnicity and ethnic hierarchy are implicated as axes of social conflict; by whether and how the central state is implicated in these local resource struggles; according to the political scope and scale at which distributive conflicts play out; and in how they are connected to (or disconnected from) electoral dynamics.

⁸ For example, Toulmin and Quan (2000,164) states that "Numerous conflicting or competing rule-orders exist, characterized more often than not by 'ambiguities, inconsistencies, gaps, conflicts, and the like.'"

⁹ Klopp 2001, 474.

¹⁰ Berry (1989, 1993), Ribot and Peluso (2003) and others have argued for more processural and less structural or institutional conceptualizations of property in general and African land regimes in particular. Here we are sacrificing the more realistic, process-based view for a less realistic theoretical model that will provide a tool for identifying similarity and variation in the more structured attributes of local settings.

Chapters focus on cases of subnational-level land conflict that emerge as farmland grows scarce and rises in value in provinces, districts, or localities in Ghana, Côte d'Ivoire, Kenya, Burkina Faso, Cameroon, Rwanda, Democratic Republic of Congo, Zimbabwe, and Tanzania. The array of cases spans the continent's regional divides, differences in colonial inheritance, and national variations in economic and political trajectories. This makes it possible to situate this institutional argument with respect to alternatives and rivals, and to track the presence and effects of the state institutions that go far in organizing political space, political territoriality, and social hierarchy across the farming districts of sub-Saharan Africa.

II. Research Design and Conceptual Innovations

Seeing Institutional Effects

To use empirical evidence to see the political effects of variation in land regimes (and test arguments about institutional cause and political effect), this study employs a research design that is the workhorse of comparative political analysis. I first develop a model for describing spatial variation in the structure and character of land tenure regimes, using subnational territories as the unit of analysis. I then test the argument that common exogenous pressures, refracted through the distinctive institutional configurations of these local land regimes, produce political effects that vary across the subnational units. The common pressure is rising competition for land.¹¹

Institutional variations, I argue, produce patterns of distributive conflict in which central states are implicated directly (or not), that play out at different jurisdictional scales (local versus national), and that cleave local society along ethnic, gender and generational, class-like, or partisan lines.

¹¹ We use the term “exogenous” to describe how these common pressures are treated in our analytic model --- (i.e., as givens), not to argue that, as an empirical matter, our “exogenous force” (rising pressure on the land) is truly independent of, and has nothing to do with, land tenure regimes. This study separates these two analytically in order to make and test arguments about the political effects of different land tenure regimes.

The analytic strategy of tracing comparative responses to broad socioeconomic shocks or broad changes in the macroenvironment is well established in the field of comparative politics. In the study of agrarian society, work so configured includes Barrington Moore's *Social Origins of Dictatorship and Democracy*, Charles Tilly's *La Vendée*, Jeffrey Paige's *Agrarian Revolution*, and Robert Brenner's *Past and Present* essays on the rise of agrarian capitalism in Europe. In these studies, distinctive subnational or regional political movements, the products of distinctive regional social structures and agrarian land tenure systems, are shown to affect the course of nations. Comparing across the industrialized democracies, Peter Gourevitch (1986) famously tracked "national responses to international economic crises," showing that the different responses to the great depression of the 1930s were shaped by sectoral-level institutions that structured relations between labor, industry, and agriculture. More recent "varieties of capitalism" literatures explain variations in capitalist states' responses to the pressures of globalization by highlighting differences in the national-level institutions that structure relations between labor, business, and the state.¹²

Common to these works is a logic of inquiry that follows the effects of "shocks," broad changes or stimuli, or rising pressures as they shake-up and destabilize an established political order at the national or subnational level.¹³ Under such pressures, existing lines of cleavage or tension can become axes of political mobilization or competition, previously settled debates or disputes are reopened, and differently positioned actors move into action to protect past gains, or take advantage of new openings.

¹² See, for example, Hall and Soskice 2001 and Jackson and Deeg 2006, 6, 32.

¹³ Tilly (1964) modeled "urbanization" as a kind of exogenous shock to rural political institutions. B. Moore (1966) examined the varied effects of the rise of the "commercial impulse" in agriculture. Many studies that lie at the intersection of international relations and comparative politics locate pressures on existing national-level institutional equilibria in the international economy. North (1981) conceptualized technological and demographic changes as "exogenous shocks" to prevailing institutional setups.

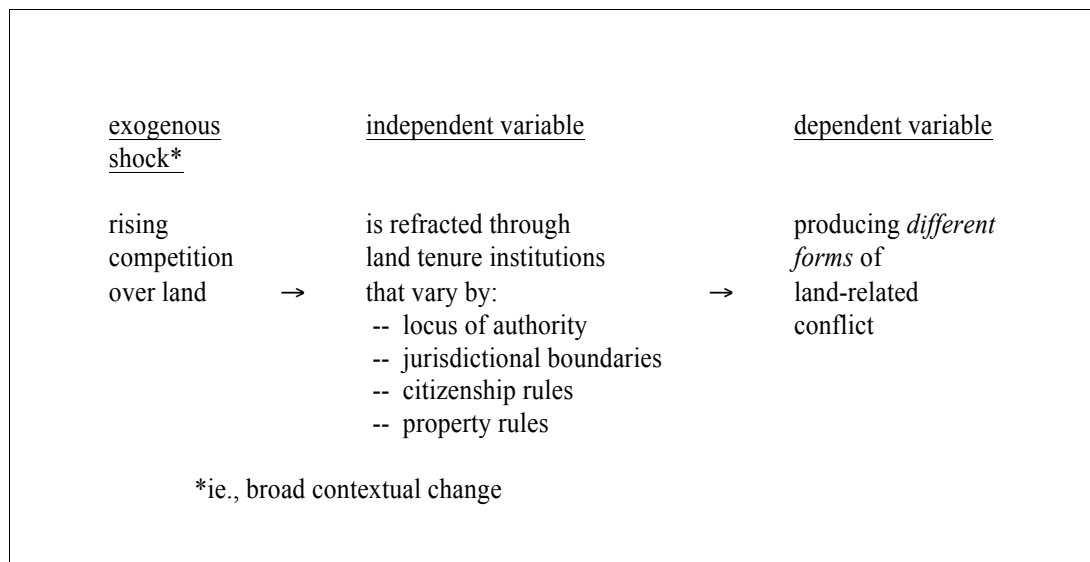
This study follows this logic by modeling rising competition for land as a shock that strains established property relationships and relations among land users at the grassroots level.¹⁴ Critics of Malthusian theories of social conflict have argued that rising land scarcity does not explain differences in the *political expression* of land-related conflict.¹⁵ I agree. Rising land scarcity does not explain why land-related tensions among farming households would be “bottled up” at the local level in one region, while similar tensions in another region could explode onto the national stage (for example, in the form of land-related violence at election time). Rising scarcity does not explain why land tensions would ever find expression in ethnic conflict or in different forms of ethnic conflict, or in grievances against chiefs in one locality and against the state itself in another, or in the national electoral arena in some countries but not in others.

This study argues that these political variations occur because tensions fueled by rising competition for land are refracted through the different local institutional configurations that make up land tenure regimes. Institutional structure shapes politics, producing effects that vary across space in predictable ways. In agrarian society, land tenure institutions play a strong role in defining lines of sociopolitical tension and cleavage (and alliance), economic and political hierarchy, rules of access to the local political arena, and the stakes of politics. The argument is that these political effects are visible in *variation in the forms* of land-related conflict. As a heuristic device, figure 1.1 arrow-diagrams this logic in its most generic form. (The more focused, testable hypotheses explored in the case-study chapters are presented in chapter 3.)

¹⁴ Rising competition for land is taken as a “macrotrend” that is exogenous to political choices made at the local level (following North 1981). Chapter 2 discusses its causes. The claim that rising competition for land is a macrotrend helps construct the *rationale* for this study (i.e., why study land conflict now?), but the claim that there is a net rise, continentwide, in the level of land-related conflict is not necessary to my argument, which has to do with the *political effects* of variation in land institutions. This argument and research design require only that local actors perceive that competition for land is rising in a given place at a given time. We do not assume that land conflict *per se* is new in Africa, that it does or will affect all regions or locales, or that it only increases over time. See Hussein, Sumberg, and Seddon 1999.

¹⁵ Homer-Dixon and Blitt 1998; Peluso and Watts 2001; Kahl 2006.

Figure 1: Structure of the Argument



Land-Related Conflict as a Dependent Variable

This study innovates by considering land-related conflict a “class of phenomena” that is isomorphic to strikes and urban protests, civil wars, outbreaks of ethnic conflict, or military coups. Like a workers’ strike, land-related conflict has causes and effects that are both systematic (patterned or common across cases) and unsystematic (random, contingent). Without denying the existence of particular and contingent causes of land conflict, this study follows a very large body of social science and policy research that identifies *systematic factors*—including demographic increase, rising land values due to commercialization, and environmental changes—that contribute to increases in the intensity, scope, and frequency of overt forms of land-related conflict.

The dependent variable is the form of land-related conflict.¹⁶ We are interested in the *political expression* of tensions that arise around growing competition for land. Land-related conflict can be highly localized or wide in geographic scope; targeted at ethnic insiders, ethnic

¹⁶ Chapter 3 discusses coding and measurement.

outsiders, or neither; shaped or fueled by government backing of either customary rights holders or “strangers” (or neither); manipulated directly by politicians or ostensibly beyond their effective reach; and played out within the local political arena of a chieftaincy, the national political arena, or at the molecular level of the family. Some land conflict finds expression in election-time political violence, but this is rare. Land-related conflict is usually nonviolent or else violent in small, private ways. Often it is evident in the “silent violence” of dispossessions that can lead to extreme social and economic vulnerability. This book argues that patterned variations in these land-conflict characteristics are largely explained by differences in land tenure institutions.

Cases, Case Construction, and Use of Cases

To develop this argument, we need to conceptualize units of analysis (cases), scales of analysis, and temporal framings in ways that make it possible to observe causes and effects that operate at the subnational level. The analysis must be *scaled* in a way that captures subnational variation in rural property regimes, as well as the environmental, demographic, economic, and agronomic forces that shape land access and use.¹⁷ The appropriate units for this study are thus rural territories defined roughly at the *provincial or district level*.¹⁸

Approximately 32 provincial- or district-level case studies constitute the empirical base of the study. The comparative case-study method conforms to the structure of the data: cases were developed from existing analyses of land rights processes in diverse rural localities, drawn from geography, anthropology, economic history, colonial and postcolonial rural-development literatures, land rights natural resource management think tanks, agrarian studies, and political

¹⁷ For example, a drought or a spike or crash in the world price of one of Africa’s export crops will not affect all farmers in a given country equally: farmers in the export-producing zone or in the drought-affected region will be affected much more directly than others.

¹⁸ *Temporal framing* is also an issue, since this is an artifact of study design that is largely constructed on a case-by-case basis in order to (a.) capture time periods in which we can plausibly make the case that land competition is rising, and (b.) assign a value to the dependent variable.

science literatures on rural politics in Africa.¹⁹ Case selection was driven by (a) the availability of longitudinal information about land regimes and land-related conflict in particular contexts, and (b) the goal of maximizing variation in the study variables—that is, the hypothesized independent variable (features of land tenure regimes, especially variation in the locus of authority over land allocation), its rivals (ethnic heterogeneity, state weakness, levels of modernization, land scarcity, and national-level variables such as national political regime type), and the dependent variable (forms of land-related conflict). Constructing longitudinal analyses was essential, given that the research design is constructed to track social and political responses to *rising* competition for land. Rising competition for land is an observable aspect of agrarian social relations in all the case studies of land-related conflict featured in this study.²⁰

Coding these cases on what we are conceptualizing as independent and dependent variables makes it possible to establish the plausibility of the general argument about institutional causes and political effects, as well as its analytic superiority over rival explanations of land-related conflict in its various forms. This analysis suggests that the argument can go far in capturing correlations between local institutional structure (encoded in land regimes) and forms of land-related conflict. As the land tenure regime varies, so, too, do forms of redistributive conflict over land.

The book's more focused arguments have to do with how land tenure regimes produce effects that are visible in patterns of ethnic conflict, in the political scale of redistributive politics,

¹⁹ What would be the extent of the "total universe" of cases? One way to imagine this is by the following calculation: if all cases of subnational politics were defined at the provincial level (first-level administrative divisions), then the total number of cases in the approximately 45 countries of sub-Saharan Africa would be about 600. (Most African countries have 10 to 20 first-level administrative divisions. Nigeria and Uganda are outliers, with 36 and 111 first-level administrative subdivisions, respectively.) Many of the cases in this study are framed at the district (second-level administrative division) or subdistrict level.

²⁰ This study focuses mostly on land conflict among smallholders (roughly defined, for the purposes of this introduction, as farmers working holdings of one to ten acres) and does not deal head-on with cases of land conflict that involve attempts by large-scale promoters of agribusiness ventures, such as foreign governments or multinational corporations, to acquire vast tracts of land for agriculture.

and in election-time conflict. To test these, we employ comparative case study analysis, homing in on a subset of about twelve cases drawn from the larger pool.²¹ In half of these, the research was grounded in, or supplemented by, fieldwork, including field observation, on-site archival research, and farm visits and interviews with farmers, land officers, local authorities, and land activists.

Not all the evidence fits into this descriptive mold or conforms to the causal hypotheses, but as Barrington Moore (1966, 469) said, “It is easier to perceive the meaning of these departures if we first grasp the general model.” Discordant findings are tracked in an effort to reveal some of the limits and weaknesses of both the analytical model and the main argument. Often, discordant cases are those where the distinctions presented as categorical in the model are blurred. The success of the overall endeavor can be measured by how well the cases featured here (and other cases from sub-Saharan Africa) can be usefully described in terms of the model, and the extent to which they manifest cause-effect patterns that conform to the hypotheses. Its success can also be judged by the coherence and straightforwardness of the theory in generating new hypotheses and insights about state structure and political dynamics in contemporary Africa.

III. Structure and Overview of the Arguments

²¹ The main cases are nine subnational regions and two national units. Four of these are divided explicitly into separate “cases studies” of pre-multipartism politics, and politics in the multipartism era. The national-unit case studies also feature analyses of key subnational regions, which are framed as cases-within-the-case. Part Two follows the logic of a “most similar” case research design (chapters 4 and 5); Part Three is four illustrative case studies. Two of these also serve as in-country contrasts to cases featured elsewhere in the book, and one is a pre-multipartism study that pairs with a multipartism politics case that appears later. Part Four features a “most different” case research design (chapter 9) and a least-likely/most likely case selection logic (chapters 9 and 10). Consideration of each unit involves within-case analysis, including identification of causal mechanisms, process-tracing, and consideration of counterfactuals and empirical anomalies. The reader does not need this information to follow the logic of the arguments. On the cases, see Table 3.____ and the appendix.

Part One, "Property Regimes and the Structure of Politics" (made up of chapters 2 and 3), develops the concepts, arguments, analytic framework, and hypotheses. Chapter 2 develops the main substantive and conceptual categories employed in the analysis, and places them in historical and political context. It advances arguments about what African land tenure regimes are, where they came from, how they vary, and how they fit into politics and state structure at the national level. In chapter 2, African land tenure regimes are the thing-to-be-explained; in the rest of the book, variations in land regimes *explain* outcomes of interest to political science. This preliminary work is important. Although rural property regimes have been a systematic focus of in comparative-politics literatures on agrarian societies, for many readers land tenure regimes, and Africa's land regimes in particular, are completely unfamiliar. Political science has tended to see rural property regimes in Africa as mostly "beyond the reach of the state," self-organized by grassroots actors, and invariant across space (Herbst 2000). As shapeless, invariant, and outside of politics, African land regimes and rural social structures have been almost completely invisible in political analysis, neither cause nor effect of anything. Those readers who *are* familiar with African land regimes may conceptualize their character and forms in ways that differ strongly from the analytics proposed here.

Departing from these precedents, this chapter develops the argument that rural land tenure regimes are institutional configurations that have been *purposefully designed or redesigned by national rulers* (both colonial and postcolonial). Rulers have shaped land tenure regimes to build state authority in the rural areas, fix populations in rural territories, and organize rural populations into political collectivities that are subordinated to central control. These institutional configurations vary across subnational jurisdictions in ways that can be grasped in terms of a conceptual distinction between neocustomary and statist land regimes. These conceptual and political arguments establish a necessary base for the analytic framework and hypotheses advanced in chapter 3.

Chapter 3 develops an analytical model and lays out the hypotheses that are tested in the remaining chapters. It provides evidence of rising competition for land and proposes that this be modeled as giving rise to *redistributive* conflict. This is a break with earlier New Institutional Economics (NIE) and development-economics approaches to property rights change in Africa. Earlier work viewed rising land values as an impetus to incremental and voluntary recontracting of property rights that would gradually lead to Western-style land markets and private property in land. Contrary to expectations, land-related conflict now appears to be pervasive. It varies in intensity and takes on a myriad of forms. The argument here is that these variations are structured by land tenure rules that define the social hierarchies, inequalities, power relations, and "rules of the political game" that prevail in local settings. As the land tenure regime varies, so, too, does the political expression of land related tension and conflict. This chapter develops an analytic framework that differentiates local land tenure regimes along four politically salient dimensions (relating to authority, citizenship, jurisdiction, and property). From this framework, chapter 3 advances a series of deductive hypotheses about how variations in the structure of land institutions shapes the political expression of redistributive conflict over property rights. The medium-N analysis of about thirty-two cases appears here, establishing the plausibility of the general argument about institutional causes and political effects.

From this analytic framework, we can derive hypotheses that cluster around three themes of particular interest to political science: ethnicity and ethnic conflict, state structure and variation therein, and elections and election-time conflict. The remaining parts of the book are organized around these three themes.

Part Two, "Beyond Ethnicity: Land Institutions and the Structuring of Ethnic Conflict" (chapters 4 and 5), shows that Africa's land tenure regimes *produce ethnic identity* and structure ethnic politics in subnational localities and jurisdictions, and do so in ways that vary across space as a function of differences in land regimes. Focusing on regions (jurisdictions) of high immigration, we show that ethnic heterogeneity in itself does not predict how or whether ethnic

identity will be an axis of land competition or whether government will side with ethnic insiders, ethnic outsiders, or neither in land conflicts. Comparative institutional analysis highlights the structuring effects of different land tenure institutions on the *formation* of ethnic groups, the establishment of *political and economic hierarchy* among groups, and the construction of *differential ties* to the state. The analysis reveals political effects that are invisible in analyses that see rural Africa as homogeneous and institutionless.

The analysis demonstrates the limits of studies that conceptualize ethnic identity as a purely ideational (subjective, cognitive) variable. It shows that in much of rural Africa, land institutions enforce and reproduce ethnicity as an state-imposed political status, and channel the tensions born of redistributive conflict in the rural areas along the lines of this political (ethnic) cleavage. Although this does not preclude that ethnicity can also be a cultural force or a cognitive resource for individuals, we can go far beyond ideational theories in explaining why, how, and when ethnic difference constitutes a salient political cleavage and line of political mobilization in rural Africa.

Part Three, "Scale: Land Institutions and the Scale of Redistributive Conflict" (chapters 6, 7, and 8), argues that land tenure regimes, by defining the jurisdictional scale of land allocation authority, determine the political scale and scope of land-related conflict. The chapters identify the land-regime conditions under which redistributive conflict over land is likely to be repressed by local authorities at the level of the extended family, when it is likely to be bottled up or repressed within the confines of an "ethnic homeland," and when it is likely to "go national" by finding expression in the national political arena. Only in the latter cases are aggrieved rural constituencies likely to join broader social coalitions that are mobilized for political action, including multiparty competition in the era of democratic transitions.

The analysis shows that African states are characterized by *heterogeneity of scale*. As in the federal systems studied by Schattschneider (1960) and Gibson (2008), and in the "multilevel jurisdictions" of Indonesia described by Dik Roth (2003) and others, this results in the partial

disarticulation of local political arenas from the national citizenship regimes, accountability mechanisms, and rules and processes of political representation that are inscribed in national constitutions. Mahmood Mamdani (1996) is correct in arguing that this institutional disarticulation has been a structural feature of virtually all African states, including the apartheid state in South Africa. Part Three describes these scalar effects, and shows how they are produced by the political-economy rules that are inscribed in African land tenure regimes.

The effects for politics at the macro level are profound. Local-level control over land allocation and adjudication in the so-called customary land regimes works to insulate higher instances of the state apparatus from rural political unrest, including unrest born of land-related conflict. The so-called customary forms of authority repress redistributive conflict at the local level, channeling it along ethnic rather than class-like lines, and creating obstacles to the formation of political coalitions that transcend the boundaries of local ethnic jurisdictions. By contrast, where central states are themselves direct land allocators and adjudicators, land conflict transmits directly into the national political arena (it “scales up” to the national level). This is because the central state is involved directly as the author of the prevailing land allocation, creating a direct linkage or direct articulation between the local and national spheres of politics. This expands possibilities for the construction of national citizenship, but it also exposes rulers to the risks of mass mobilization, the formation of broad electoral coalitions, and class politics.

Part Four, "Elections: The Nationalization of Land Conflict" (chapters 9 and 10), argues that the effects of returns to multipartism on land politics have been mediated by variations in land tenure regimes. The land regime variable turns out to be key in identifying the conditions under which conflict fueled by land-related conflict is likely to find expression in the national electoral arena, and why and where multiparty competition can open the door to wide-reaching redistributions of property rights.

Engerman and Metzer (2002, 2) write that sudden changes in the structure or locus of political control over a given territory can be expected to produce changes in the distribution of

land rights. The analysis in these chapters identifies the land tenure situations in which this effect is likely to be felt most acutely at election time. Where small-scale farmers' land rights hinge on a politically contingent relationship with an incumbent in the central government, the redistributive stakes of national elections can be very high. This is the mirror image of the situations described by Przeworski (1991) and Ordeshook (1993) when they wrote that credible private property regimes help stabilize electoral democracy by sheltering the "fundamental interests" of the average citizen from the vicissitudes of electoral politics. The vulnerability of the prevailing distribution of land rights to a shift in power at the top goes far in explaining the highly charged link between property conflict and elections in some African settings.

IV. Significance of the Study

We can learn much by studying how land conflicts vary in form and political expression in Africa. Analyzing property regimes, how they vary, and how they are changing produces an understanding of the structures and processes by which rural Africa is governed and incorporated into the modern state. This study frames hypotheses about how variation in grassroots-level property relations shapes broader political dynamics. These hypotheses offer leverage in analyzing phenomena, such as voting behavior and political participation, ethnic cleavages and ethnic mobilization, patterns of distributive conflict, and rural unrest and rebellion that are very poorly understood.

Across much of Africa, farming and pastoral areas are under great pressure: economic, demographic, and environmental changes are straining prevailing political and social rules governing land access and land use. Returns to multipartism and economic liberalization create new demands, risks, and openings. These pressures are having uneven and often unanticipated effects in rural Africa, often ramifying, spilling over, or scaling up to fuel macrodynamics that are of great interest to political science, and critically important in shaping national trajectories.

Tracking and attempting to explain these effects requires an understanding of the political-economy content of state institutions, formal and informal, at the local level. In agrarian society, land tenure regimes lie at the core of these political-institutional structures. This analysis points to the fact that in much of rural Africa, these local rules and institutions are, to varying degrees, nonliberal—in how they define property, in how they define citizenship, and in how they connect citizens to higher levels of the state apparatus. Hierarchical authority, both hereditary and bureaucratic, and ascriptive rights and entitlements go far in structuring access to land and other productive resources.²² Patterns of resource access and control are not decided in an apparently neutral or apolitical marketplace. This is key to understanding why political liberalization and intensifying resource competition have heightened contestation over citizenship rights, entitlements, and the locus of legitimate political authority in many African countries, rather than dissipating conflict and fueling a smooth expansion of the political and economic market.

In tracing these processes, we also probe hypotheses about where, when, and how politicians try to suppress, amplify, or direct the momentum and tensions that arise from competition for land. Political entrepreneurs have often proved able to harness these processes for wider purposes, including state building, economic development, rural political mobilization, the recruitment and organization of rebel groups, and electoral gain.

This study is not the first to examine connections between state structure and land politics in Africa. There are excellent African land-tenure literatures in social and economic anthropology, development studies and development economics, economic history, and the natural resource management field. Much of politics-centered work on African land tenure hinges on the problematique of legal pluralism. Legal pluralism points to the fact that in most (or perhaps all) African countries, there are unresolved legal contradictions between land policies and

²² Ascriptive rights are rights and entitlements assigned on the basis of membership in groups that individuals are assigned to at birth. See Metnick (2006, 23), who explains that this kind of right has a “striking constitutive effect” on human identity.

practices that recognize “customary tenure,” on the one hand, and statutory land regimes that recognize formal-legal forms of land tenure (such as statutory freehold, or private property), on the other. This study argues that various forms of legal pluralism must be understood, at least in part, as artifacts of state design, rather than as the products of error, delay, or failure on the part of governments that should be creating unified national property regimes. This makes it possible to see the political logics encoded in existing land regimes, and how rulers may use land rules strategically to gather and maintain power. This study also shows that the legal contradictions and sociopolitical conflicts that emerge from legal pluralism—including conflicts over citizenship, ethnicity, authority, and property—are not distributed evenly, or randomly, across space.²³ Rather, they distill in institutional configurations that differ across subregions, even within a single country.

Jean-Claude Willame captured this unevenness in the political geography of land tenure regimes in writing of *two different ways of managing or governing territory* (“*deux types différenciés de gestion de l’espace*”) in eastern Democratic Republic of Congo.²⁴ The analysis presented in this book generalizes this insight, showing that this spatial variation in land regimes produces strongly varying political effects. Comparisons and contrasts that emerge in the case allow us to draw out the broader political implications for understanding political conflict and integration in African states and societies.

²³ For examples of such conflicts see Geschiere (2009); Joireman (2011); Lund (2008); and Onoma (2010).

²⁴ Willame, *Banyarwanda*, 1997a, 40.

PART ONE

PROPERTY RIGHTS AND THE STRUCTURE OF POLITICS

CHAPTER 2

LAND REGIMES AND POLITICAL ORDER IN RURAL AFRICA

It is important to remember that the distribution of
land is akin to the distribution of power
(Kiggundu 2007).

*“Les hommes sont beaucoup plus facile à contrôler en monde rural.”*²⁵
(economist, Abidjan, October 2011)

For political analysts working within the closely defined frame of formal political institutions such as legislatures and electoral systems, structures of government and social organization in rural Africa have been nearly indecipherable. In most of rural Africa, institutionalized, legible, and transparent forms of socioeconomic accounting, such as social security records, tax rolls, and land registries, are absent, incomplete, or outdated. The nature and distribution of asset holding is opaque. Formal institutions and opinion registers that would allow outsiders to identify competing rural interest groups, their representatives, and their policy preferences are few and far between. African governments themselves have often claimed that custom and tradition prevail where modernity is held at bay, and have promoted the image of rural communities as existing in a premodern state of social equality and political inertia.²⁶ Most political analysts have not looked

²⁵ It is much easier to control people in the rural areas.

²⁶ The stereotype of rural Africa as strongly egalitarian is based on the absence of *latifundia*, or land-holding aristocracies. Absence of feudal relations of surplus extraction, and the strength of most households' land claims *within their homelands*, especially under conditions of land abundance, have served to deflect attention away from the land tenure regimes that create political hierarchy within rural localities.

for or seen structural differentiation and institutionalized political forms in rural Africa; many seem to have simply assumed the absence thereof.²⁷ In public opinion polling and some election studies, for example, rural African voters are often modeled as ethnicity-driven individuals (or groups) who act in an unstructured and institutionless political space. Patterned outcomes, such as the persistent salience of ethnic cleavages in voting, the organization of patronage hierarchies, the scope and limits of state penetration of local life, and even outbursts of violent conflict, are thus often attributed to cultural and ideational factors, and especially to the exaggerated role of ethnic identity in political life. This bias in approach leaves the institutional and structural factors that shape rural political behavior and outcomes very largely uninvestigated and untheorized.

Reversing the dominant line of argument, this book underscores the extent to which patterns of rural politics are the result of Africa's modernizing and state-building projects. The analysis attributes patterned variation in political outcomes to the structuring effects of micro and macro institutions, both formal and informal, that the state itself has worked to design or mold. These institutions are rural property regimes, or land tenure regimes.

This chapter introduces African land tenure regimes (LTRs) as authority-based property regimes. They are institutional configurations that were made and remade in the course of twentieth-century state building and are thus artifacts of this process, not exogenous to it. The first section of the chapter argues that the modes of land control that prevail across most of the smallholder farming regions of sub-Saharan Africa can be conceptualized in terms of two ideal types: the so-called customary land tenure regimes and what we call *statist* land tenure regimes.²⁸

²⁷ Anglophone political scientists since the 1990s have veered away from analysis of institutions in African political systems in general, and in the countryside in particular. Most of the political economy literature has focused at the national level, on patrimonial political networks which erode formal institutions, and on the nonagricultural sector. Some have even assumed that rural political institutions do not exist. Others have argued that they do exist (for example, in chieftaincy) but are antithetical to, and in competition with, the modern state. Some notable exceptions to these generalizations are Bates (1981, 2001); Mamdani (1996); Munro (1998, 2001); and Longman (2010), Morris MacLean (), and Onoma ().

²⁸ The term “statist” invokes comparative political economy's notions of a “statist development strategies” (as in Korea in the 1980s) or “statist” forms of economic regulation (as in France in

The distinction between these two authority-based modes of land allocation is the pivot point of our analysis.

The second part of the chapter discusses each type of land regime in both historical and schematic terms, showing how each institutionalizes hierarchy and inequality within rural jurisdictions and connects land users to the state. The third section zooms out to place these land regimes in national political context. This section underscores the importance of rural land tenure regimes in structuring political authority in the rural areas, organizing the political incorporation of rural majorities into national political systems, and tying rural constituencies to government.

This chapter lays the conceptual basis for chapter 3, which argues that rising land values and the experience of increasing land scarcity strain established sociopolitical relationships and hierarchies, fueling the land-related tensions that are the focus of the rest of this analysis.

I. Market-based and Authority-based Property Regimes

Political economists theorize in terms of two ideal-type systems of resource allocation.²⁹ One is market-based systems of allocation, where land, labor, and capital are privately-owned commodities that are allocated and combined mostly through the workings of competitive markets and price mechanisms. The second is an authority-based (or hierarchy- or politically-based) systems of resource allocation, where market mechanisms are weak, economic resources are not traded as commodities on open markets, and non-market actors such as political

the same era). “Statist” as a descriptor of a national regulatory regime is juxtaposed to “liberal” or market-oriented forms of economy in which governments *regulate* markets but intervene much less directly. Statist land tenure regimes are marked by direct state allocation of land. The farmer may receive a plot of land directly from a uniformed agent of the Ministry of Lands, or from the local prefect or sub-prefect. In the neo-customary land regimes, by contrast, the hand of the state in structuring resource allocation is “invisible” because it is indirect. A farmer can be granted permission to farm a certain tract of land by a neo-traditional chief whose land powers are recognized by the central government.

²⁹ In the works of Max Weber, an ideal type is a hypothetical, abstract concept or analytic construct designed to stress particular elements that are common to a class of phenomena.

authorities control how (and by whom) land, labor, or capital are coordinated and combined in economic activity.³⁰ In the real world, all economic systems are hybrids of these two, with some dominated by markets and private control over the means of production and others very strongly shaped by governmental and other authoritatively-based political controls over the economy. In the past twenty-five years or so, market-based systems and the private property regimes on which they rest have become ideologically naturalized in much of the world, and in much of social science. Most governments now embrace the principle that markets can produce efficient and legitimate resource allocations, and scholars are not caught up in ideological debates over the market system *per se*. With global shifts in ideology and policy, authority-based controls over economic life have receded into the background of comparative-politics analysis, to the point that scholars may forget that whether and what extent markets actually do allocate economic resources and assets must be treated as a *variable* in comparative political analysis.

The incorrect assumption that private property regimes and competitive markets prevail everywhere produces profound misreadings of political dynamics in rural Africa and in many parts of the post-communist and late-developing world. In the countries, regions, and localities that make up much of the late-developing world, access to productive assets, forms of asset ownership, the security of property-holding, and property transactions are often significantly encumbered by political hierarchies and relationships.³¹ Although this is particularly true in many rural areas in poor and developing countries, examples of authority-based systems of resource allocation are not limited to these regions. Examples of politically-allocated access to capital, markets, natural resources, and productive assets can be found at the commanding heights of the economies of the developed countries.³²

³⁰ Lindbloom 1977 offers an extended discussion.

³¹ See, for example, McMann 2006 and Junisbai 2009 on post-Soviet central Asia, and Whiting 2000 on China.

³² Simon Johnson, Quiet Coup, *The Atlantic*, May 2009.

In sub-Saharan Africa, most farmland and pastureland is not held as private property by titled individual owners. Most rural farm and pastureland is not fully commodified; it is not traded as a pure commodity on open and competitive markets. Although there are some exceptions, in the vast majority of cases, land rights are politically contingent and not exclusive to one person, and permanent or outright transfers of ownership via sale are not recognized by law.³³

The vast majority of African smallholders do not have formal private property rights in the land they depend on for their livelihoods, well-being, and a place to reside. Legal markers of individual ownership rights—surveyed, registered, and titled land parcels—are rare.³⁴ Comprehensive national landholding registries and cadastres do not exist, and the institutional preconditions for imposing land taxes on family or peasant-scale farms are not in place.³⁵

Writing for the World Bank, Deininger estimated in 2003 that only 2-10 percent of all land in sub-Saharan Africa is held under private title.³⁶ Table 2.1 compiles some country-specific indicators on this variable, affirming that this range is a good estimate of the extent of private property holding in African countries for which we have data. The African Development Bank's (2009, 9) observation about Cameroon captures much of the general picture: "Land certificates have been issued for barely 2% of the national territory." A 2005 study of Zambia reported a similar result, noting that "94% of all Zambian land is held in 'customary' tenure."³⁷

Much of the privately registered and titled rural land in Africa is owned by large-scale commercial operators who engage in agribusiness or commercial ranching, not by the rural

³³ By Alston and Mueller's (2005, 573) definitional scheme, these arrangements would fall between the extremes of open-access systems and systems of fully specified private rights and, thus, would be categorized under the heading of "a host of commons arrangements."

³⁴ For example, a land titling and registration system was introduced in Ghana in 1986, as Kasanga and Kotey (2001, 5) explain: "The process of registration is selective and, at the moment, only applies to the urban centres of Accra, Tema and parts of Kumasi. . . ." [The title registration system has been in place for more than a decade.] However, "its impact has been negligible."

³⁵ This means that we cannot measure social stratification in the countryside by analyzing land parcel registrations, title deeds, or land transactions (such as transfers of title).

³⁶ Chimhowu and Woodhouse 2006, 346, citing Deininger 2003.

³⁷ Brown 2005, 79.

households that make up almost 70 percent of the region's total population, and 65 percent of its workforce.³⁸ Cross-national variations in land titling correspond roughly to cross-national differences in GDP per capita (if we remove a few outliers, such as Botswana, from the pool, but regime-type differences within Africa do not seem to be reliable predictors of variation in the extent to which governments have granted and enforced private property rights in land. In Senegal, considered in the 1990s to be one of the continent's most robust democracies, five percent or less of all land is under private title. Table 2.1 shows that percentages of land registered and held privately are higher in East and southern African countries where white settlers imposed private property regimes (in some subnational jurisdictions) during the colonial period to protect only their own landholdings.³⁹

³⁸ In two of every three sub-Saharan African countries, over 60 percent of the total population lives and works in the countryside (see Table 2.X). [Need to determine the number for this table.] Africa's urban-rural balance is almost the exact inverse of what is found in Latin America, where, in the year 2000, only about 25 percent of the population was living and working in rural areas, and 20 percent of the workforce was rural (WDR 2008). For figures on Western Europe, see Luebbert 1987.

³⁹ These states, including South Africa, Zimbabwe, and Kenya, inherited the British legal tradition. Private property institutions were also created to secure land alienated by Europeans in French Algeria. [Difference in inherited legal tradition (French civil law versus British common law) does not explain variation in the dependent variable examined here (i.e. forms of land-related conflict). The cases show that forms of land conflict can be constant across countries with different colonial legal traditions, vary across space within one country (i.e., with a single legal inheritance), and vary across countries with a shared legal tradition. For a discussion of the inherited legal tradition debate, and studies comparing the developmental effects of inherited direct and indirect rule institutions, see Nunn, October 2008.]

Table 2.1: Land Registered under Private Title (by country and source)¹

Country	Percentage (est.)	Source
Senegal	5%	often cited figure
Ghana	<20%	World Bank, Ghana Land Proj. 2003 ²
Côte d'Ivoire	1% (1987)	Club du Sahel, 2006:28 ³
Cameroon	2%	ADB, Cam. Land 2009:9 ⁴
DRC	<1%	Huggins, Kamungi, et al.:8
Kenya	15% (arable)	Partners, "Joint Statement"
Kenya	6.3% (total land area)	Warner, K. (1993). ^{5]}
Sudan	5%	Vermeulen and Cotula, JPS, 2010: 905 ⁶
Malawi	8%	UNECA 2003: 2-3 ⁷
Uganda	20%	Businge, 2007:2 ⁸
Zambia	3%	UNECA 2003: 2-3 ⁹
Rwanda	<5%	Huggins, Kamungi, et al.:8
Burundi	<5%	Kiggundu, Brookings, 2008 ¹⁰
Mozambique	3%	UNECA, 2003: 2-3.
Namibia	44%	UNECA 2003: 2-3
Lesotho	44%	UNECA 2003: 2-3
Swaziland	27%	Rose, 1992: 17
Botswana	5% (freehold)	Mathuba, B.M., 2003:4; UNECA 2002: 2-3
Zimbabwe	41%	UNECA 2003: 2-3 ¹¹
RSA	72%	UNECA 2003: 2-3
Sub-Saharan Africa	2-10%	Deininger, 2003 (Chimwoku and Woodhouse.)
"most SSA countries"	<10%	Huggins, Kamungi, et al:8

¹ Sources are often unclear on the denominator: all farmland, all land, or total surface area?

² In WB, Ghana Land Project 2003:88, "more than 80% of the country's total land area is communally owned." This means that the "less than 20%" reported above includes both private title and state property, as in the case of forests and parks.

³ Norwegian Refugee Council (2009) gives the figure 2% for Côte d'Ivoire

⁴ ADB on Cameroon. Vermeulen and Cotula, JPS, 2010, say "less than 3%."

⁵ On Kenya from Warner (1993), this is 1.5% freehold and 4.8 % registered "other" trust land, sometimes considered freehold but in practical terms, probably not.

⁶ Vermeulen and Cotula (JPS, 2010: 905) write that about 95% of all the land is de facto state-owned.

⁷ The UNECA 2003 figures refer to land under "private, freehold, or leasehold tenure," and % of national territory. For Malawi, Kandogo 2006 gives the figure 15%.

⁸ Businge (2007:2) writes that "customary tenure [is the regime] under which 80% of the land in Uganda is held." Burns, WB 2007 says that 62% of land in Uganda (68% of the population) is under customary tenure.

⁹ On UNECA 2003, see note 7. Brown (2005) gives the figure 6% for Zambia. Mbinji (2006) reports for Zambia: 7% as freehold until freehold was abolished in 1975. 1995 Land Law says 93% of national territory is under control of chiefs.

¹⁰ "Less than 5% of all land is registered." Vermeulen and Cotula (JPS 2010:905) report that about 3% of the land has been formally registered and is held under private ownership.

¹¹ Roe (1995) gives the figure 33%.

Legally, states themselves are the owners of all unregistered and untitled land, and the constitutions of some African countries vest the power to allocate land in the president. As land rights lawyers Liz Alden Wiley and Patrick McAuslan point out, the absence of formal or legal property rights in land for the vast majority of rural people means that the state is their landlord, or overlord. McAuslan writes that from a legal standpoint, most peasant farmers are “tenants at will” of the state. The lands worked by most African farmers (and pastoralists) are parts of “national domains” that are legally owned and managed by political authorities in the name of the state.

In some places, governments administer the allocation and holding of rural property directly. This book refers to land regimes that fit this criterion as statist land tenure regimes, and focuses on situations in which state agents are direct allocators of land.⁴⁰ In other places (in fact, across most of the national territory in most African countries), rural land is governed indirectly, through the so-called customary land tenure systems that have been shaped and codified by Africa’s colonial and postcolonial rulers. We call these “customary” (to employ the designation used by colonial and postcolonial governments) or “neocustomary” land tenure regimes, but stress the fact that they bear very limited resemblance to precolonial land rules and practices.

Under both kinds of land tenure regime, some measure of hierarchical or authority-based control structures landholding, access to land, and land transactions. Political relationships involving hierarchy and dependency are insinuated into land-access and land-transaction

⁴⁰ It is conventional to typologize African land regimes in terms of the “statutory law” and “customary law” distinction. The UNECA (2003), for example, defines statutory tenure as land under “private, freehold, leasehold, and state land and ‘other’” arrangements. This study does not adopt this typology because an important goal is to disaggregate the statutory category. The difference between “private, freehold, and leasehold” and “state and other” tenure regimes is critical in this analysis. Much of “state and other” land is not managed statutorily. To pursue this point, I set aside the conventional typology and distinguish instead between (neo)customary and statist land regimes. Private, freehold, and leasehold could be regarded as *subtypes* (or variants) of the statist type of land regime, given that under these arrangements, landholding is, in fact, governed by statutory law, contracts are enforced directly by the state, and transactions occur in markets that are regulated directly by the state. This reasoning would elide the economists’ conventional distinction between market-based and authority-based systems of allocation because it points to the role of political authority in structuring both systems of allocation.

relationships, even where informal or “vernacular” markets in land rights have emerged.⁴¹ This gives land-controlling authorities political leverage over land users. It also gives land users political arguments, and political avenues of defense, against market forces that threaten their access to land. Land tenure regimes create and institutionalize not only these vertical political inequalities and dependencies but also horizontal political inequalities. What are the implications of these arrangements for politics, democracy, and transitions to the market? How do patterns and politics of landholding influence voting patterns, identity politics, and patterns of collective action and mobilization? What are the implications for state structure and governing strategies? These are questions that this study seeks to address.

I. Property Regimes and Political Structure in Rural Africa

“Land has been an object of policy intervention from colonial times to the present, and *every spot of land in Africa* has a history of changing land policies and different forms of land politics.”
(Adams and Palmer (2007, 72, emphasis added).

Colonial administrations, independent governments, and actors at virtually all levels of Africa’s social hierarchies have exploited the ways in which authority-based controls over land can be used to gather power over people and to structure and incentivize their political behavior.

⁴¹ “Vernacular” or informal markets in land rights do exist in many parts of rural Africa (for rentals, pawning or mortgaging, share agreements, and so on), but usually the rights that are transferred fall short of what are considered full ownership rights in Western property law. (See, for example, Chimhowu and Woodhouse 2006, 346, 352). This is true in many areas of high market activity in land. As Ouédraogo (2006, 22) says of transfers of irrigated lands located close to urban markets in Burkina Faso, land *is* sold, but these sales are “*transactions dissimulées*” that do not culminate in the definitive cession of property rights to buyers. Unofficial sales are common, but by definition, these are not enforced by the state. Sales are often redeemable by members of the seller’s extended family, who are recognized as rights holders in land held under customary tenure. Many land sales are initiated by those empowered as “customary custodians of the land,” making such transactions not classic market-based exchanges but something more akin to a mayor selling off property that belongs to the municipality, and thus in breach of rules in a way that opens the door to debates over abuse of authority and the legitimacy of the market.

Conquering European states claimed ownership or trusteeship of all land in the African territories. Where they wanted to use and exploit some of this land themselves (for urban development, government installations, mining, and the settlement of European farmers or ranchers), colonial authorities usually expropriated African landholders and users. In these places, farmers or pastoralists were forcibly expelled from their ancestral areas or from lands they claimed by other rights. Colonial states proceeded to allocate land access to users directly, either arbitrarily or under statute, institutionalizing the statist land regimes that figure prominently in this analysis.

Across most of Africa, however, the Europeans' main goal was not to expropriate existing users. The colonial powers did not seek to assert direct control over agricultural production, or direct political control over the land. Rather, they sought to keep most of the population in the rural areas, subsisting and producing as farmers or pastoralists, and to control population's mobility by fixing individuals and families within delimited territories designated as "ethnic homelands." To construct low-cost institutions to exert political and social control over these people, the colonizers sought to take advantage of (or create) mechanisms of social control that were presumed to exist in "African tribal society." Designing the customary land tenure regimes was rulers' main instrument for doing this. This involved defining, delimiting, or creating the "natural tribal communities" that were presumed to be the authentic African social form, fixing the boundaries of the micro-territories that were designated as their ancestral homelands, and sharpening and codifying relations of political hierarchy within these geographic units. This transformed what the colonizers perceived as the vast and politically-fluid (or decidedly oppositional) spaces of conquered Africa into the "governed spaces" of Africa under colonial rule.⁴² It gave the colonial administrators the *interlocuteurs valables* and trusted local intermediaries through whom they could govern the rural masses.

⁴² Watts, ____.

The neocustomary land tenure regimes were less costly to erect and enforce than the more invasive and overtly coercive statist land regimes. After the Second World War, the indirect-rule logic embodied in the customary land regime was colonizers' preferred institutional choice across almost all sub-Saharan Africa—that is, wherever countervailing considerations did not create rationales for imposing the more costly (in terms of administration and coercion) statist land regimes.

The Neocustomary Land Regimes

In most of sub-Saharan Africa, throughout most of the colonial period, land was abundant, and colonial administrators' concern was not with managing land as a scarce resource.⁴³ In most of sub-Saharan Africa from the 1910s through the 1940s, the Europeans' main concern was to cement alliances with selected rural strongmen—chiefs, emirs, kings, elders, and other local rulers—who could serve as their agents or partners in ruling the countryside. To this end, territorial jurisdictions were delimited, and officially designated “customary rulers” were invested with wide-ranging executive and judicial authority to exercise within their official territorial domains. Sally Falk Moore (1991, 111) describes this process in the Mt. Kilimanjaro region of Tanganyika (today's Tanzania):

The German colonial peace put a stop to the fighting [among several dozen politically autonomous chiefdoms on Mt. Kilimanjaro], hanged some chiefs, deposed others, and installed chiefs answerable to their colonial rulers. . . . Over time, the political arena was completely reorganized. What had been dozens of chiefdoms were consolidated into fewer and fewer [for the administrative convenience of the Europeans]. In both the German [1886-1916] and the British [1916-1961] periods, each chiefdom had a law court presided over by the chief. . . . [T]he judicial role was an extension of chiefly administrative authority. . . . It served as an arm of the colonial government.”

⁴³ There are many exceptions in the pre-WWII period, including much of South Africa and Kikuyuland in Kenya, both targets of land expropriation by Europeans. Another exception is the Gold Coast, where the commercial production of cocoa was long established.

European colonial authorities' interest in *land tenure* flowed largely from their interest in establishing and enforcing these new forms of state-recognized authority over rural people.⁴⁴

Rules of land access were set to establish hierarchical relationships between the collaborating African elites and their subjects. Chanock writes that in the British colonies of Malawi and Zambia, the new systems of customary land tenure reflected the colonizers' vision of the customary rulers as petty monarchs with power to allocate land in their domains:

“Early administrators approached Africa with certain basics in mind. . . . An essential part of this picture was the model of land tenure, the basic features of which were that land was held in some form of communal tenure and could not be sold by individuals, and that all had a more or less equal right to land. . . . Rights in land were seen as flowing downward . . . [and as] derived from the political authority, rather than residing in the peasantry. [It was] an essentially feudal model.” (Chanock 1991, 63-64)

In Northern Nigeria, also under British rule, the colonial Lands Committee “quite literally ‘invented’ the idea of communal land tenure among Hausa communities in order to push through a particular type of colonial project” (Watts 1983, 75).

Authority and Jurisdiction under the neocustomary regimes. Although “some of the organizing concepts of precolonial land tenure systems continued to influence evolving patterns of land control” (Berry 1988, 58), state-recognized chiefs and the male elders or lineage heads who were often designated as their advisers were given wide powers to make up what colonialism recognized as customary land tenure. They used these prerogatives to extend their authority (and their landholdings). To extend Moore’s Mt. Kilimanjaro example,

During the colonial period chiefs used their administrative powers gradually to appropriate increasing control over the allocation of unused land. . . . [By the middle of the colonial period, chiefs] actively interposed themselves in all land allocations and transactions. Hailey (1938, 848) cites a Chagga Native Authority regulation legitimating

⁴⁴ As Chanock (1998, 40) argues in an analysis of Malawi and Zambia in the early colonial period, land tenure systems were as much about imposing control over *rural populations* as about controlling land as an end in itself. Jean Schmitz (CEAN 1991) makes the same point when he describes the sharply hierarchical systems of land control in the Middle Valley of the Senegal River in the 1980s as, first and foremost, a template for political and social order: control over land was a *pretexte* or mechanism for imposing control over people.

the transfer of land only if *made with the authority of the chief* (Moore 1991, 113-14, emphasis author's).

Land powers gave the customary authorities carrots and sticks, which they used to govern their rural subjects. In the land domain, the customary rulers had the power to allocate unoccupied land; seize and reallocate land deemed not in use; cede land to the central government or at its behest; seize land they deemed needed for communal purposes; seize the land of people who did not pay taxes, fines, meet the *corvée*, or submit to conscription; force widows and divorced women to turn over land to their in-laws; force younger men to submit to the discretion of elders in deciding land disposition and use; dispose of inheritance cases; rule on other land disputes within and among families; authorize transactions or sanction individuals for land transactions (such as rentals) not deemed to conform to customary practice as defined by the chief and elders; and enforce colonial land-use policies (such as forced terracing or destocking). These prerogatives were supplemented by powers to tax, conscript, arrest, jail, and mete out justice (short of the death penalty). In all these ways, colonialism's political and economic institutions worked at the microlevel to impose and enforce the hierarchy of those who had administrative powers over the land, over those who worked the land or needed access to it. Writing of French West Africa, Beusekom (1997) says that land tenure regimes were "a mechanism of social control prized by colonial officials."

Customary authority was conceptualized as "tribal authority" exercised by traditional rulers over tribes in their ancestral homelands. To use this as the basis of a system of territorial government, colonial officials had to designate officially-recognized customary rulers, delimiting territorial jurisdictions for the exercise of this form of authority, and assign subject populations to rulers and territories. Mamdani (1996) describes this process as "containerizing" African populations into separate ethnic cages.

With the help of anthropologists, colonial authorities undertook to draw jurisdictions that confirmed or expanded the geographic sphere of influence of some (trusted) customary

authorities and reduced or eliminated the domains of other (often distrusted) local leaders. The size of jurisdictions was also adjusted to meet standards of bureaucratic expediency. The Gogo of Tanganyika, for example, were amalgamated into a new, hierarchically ordered chiefdom in the 1920s because British administrators deemed their existing political collectivities to be too small and too decentralized (Rigby 1977, 84).

These new jurisdictions were supposed to be tribal territories encompassing the ancestral homelands of the people (grouped into a tribe) who were subject to the authority of the customary (tribal) ruler. When reality did not fit the administrative map, reality was often adjusted. For example, the British in Tanganyika created a “Maasailand,” and in 1925, the Senior Commission for Arusha District, Mr. Browne, commanded that “all Masai are to be moved into the Masai Reserve.” Those who refused to move were to “give up their claims to be Masai.” Reciprocally, the non-Masai finding themselves in the reserve were commanded either to become Maasai or to move out: All communities were to “accept the citizenship of the tribes they were living among.” Browne quoted the late Governor Sir H. A. Byatt: “They must definitively be Masai or not Masai.”⁴⁵

These official homelands constituted the geographical/territorial arenas for the exercise of customary rulership, and the operation of customary courts, land tenure regimes, and citizenship regimes.⁴⁶ Figures 2.1 and 2.2 are reproductions of colonial maps of tribal and chiefly territories. Van Binsbergen describes the first figure, “Tribal Territories of Northern Rhodesia [Zambia], c. 1935”:

⁴⁵ Tanzania National Archives (TNA), Mr. Browne, Sr. Commissioner Arusha District, Annual Report 1925, 18 January 1926, p. 11 (TNA, AB.31 (1925). File n. 1733/1/36).

⁴⁶ Groups without officially recognized homelands were often left out, either inadvertently or by design, and thus pressured to “join recognized tribes,” as were the non-Masai in central Tanzania. Otherwise, they “did not exist” in the eyes of the state and did not have a state-recognized homeland. Recognition of a homeland can thus be seen as something that rural societies “got” from the colonial state, although, of course, they were bargaining from a position of great disadvantage. In zones vulnerable to land expropriation by whites (such as northern Tanzania), state recognition of a homeland was better than nothing when it came to resisting expropriation. See, for example, Spear 1997 on the 1951 Meru Land case.

For the African inhabitants of Northern Rhodesia, a . . . map was drawn up, clearly demarcating, and distinguishing by contrasting colours, the various “tribal” areas into which the territory was administratively divided; the assumption was that these divisions coincided with linguistic and cultural distinctions, thus reifying (through the binary opposition of ethnic names) cultural gradients that were in fact much more continuous, in most cases. Anthropologists used this map with the same enthusiasm as administrators. . . . [T]he map was uncritically reprinted in post-colonial times by the Zambian Survey Department, the country’s official producer of maps.⁴⁷

Figure 2.1. Tribal Territories of Zambia [Northern Rhodesia], c. 1935

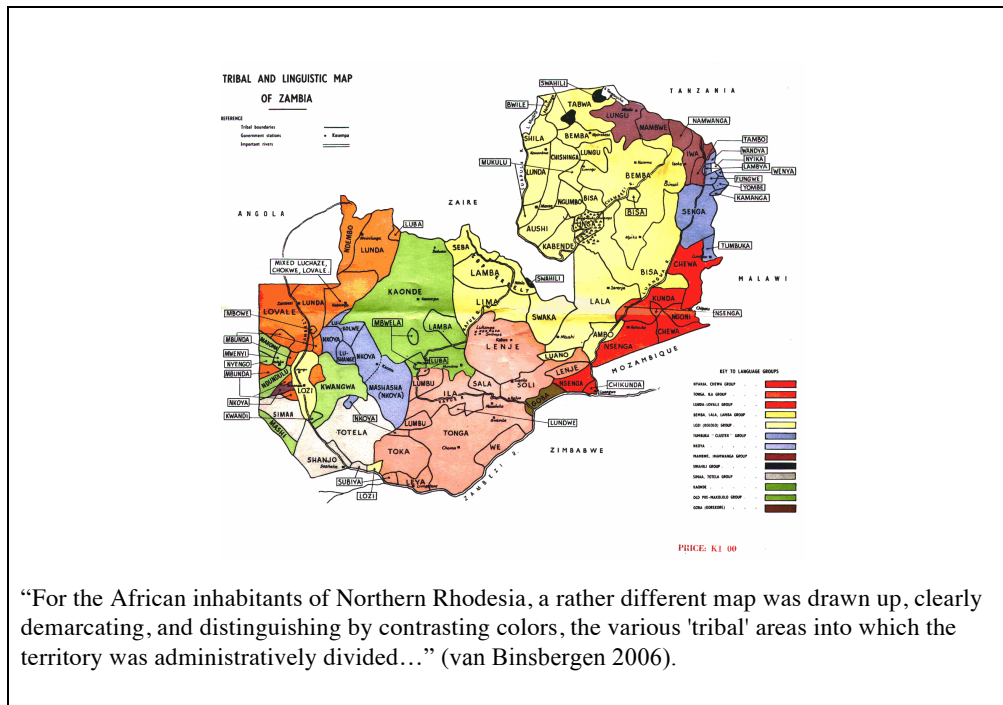
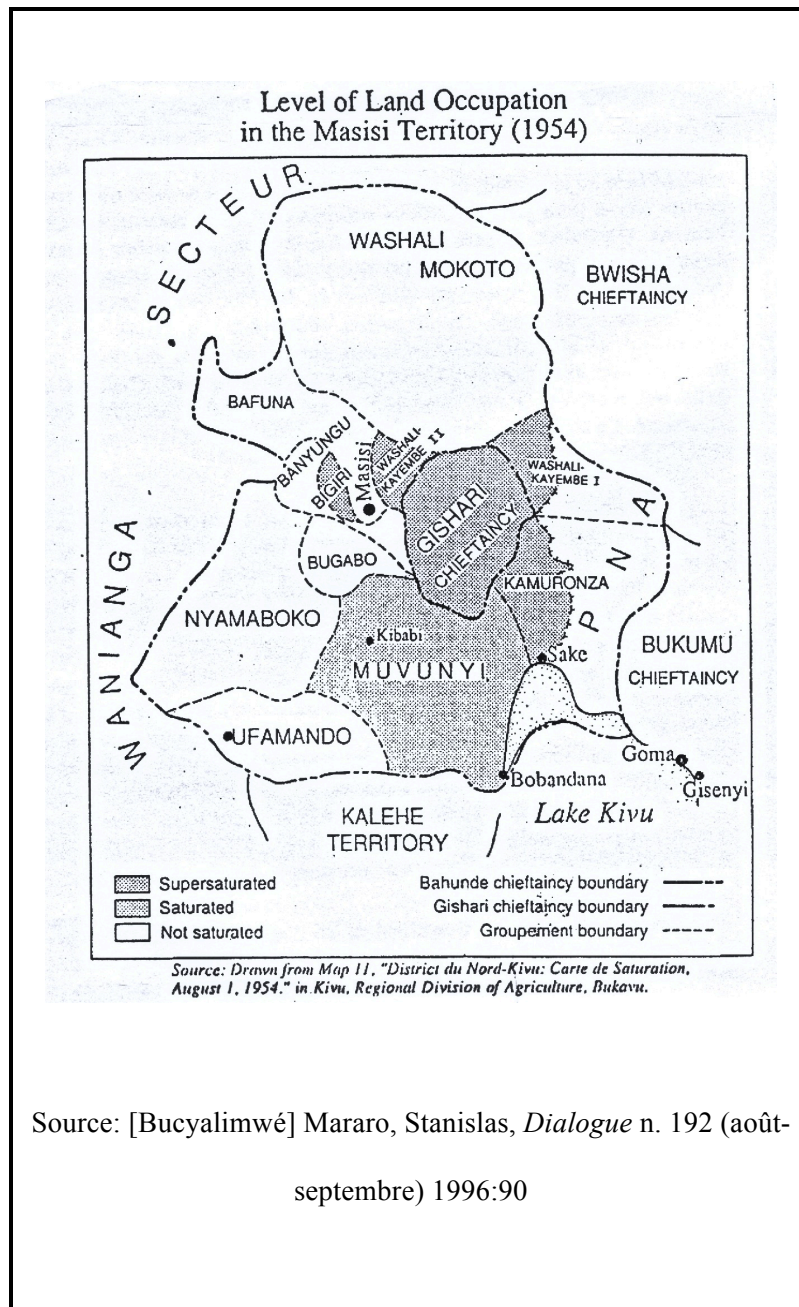


Figure 2.2, “Chieftaincy Jurisdictions in Belgian Congo, Bukavu Division (1954),” depicts the political microterritories created by the colonial administration in what is now North Kivu to partition space, authority, population subgroups, and land. High variation in the population density scores of neighboring chiefdoms is an indicator of constraints on population movement across the jurisdictional boundaries.⁴⁸

⁴⁷ Manchester School Photo essay by Wim van Binsbergen, posted at www.shikanda.net/ethnicity/illustrations_manch/manchest.htm, 10 Dec. 09.

⁴⁸ from Mararo 1996, 90.

Figure 2.2. Chieftaincy Jurisdictions in Belgian Congo, Bukavu Regional Division [Kivu], Masisi Territory (1954)



Within these jurisdictions, the architects of Native Administration endeavored to organize colonialism's African intermediaries into hierarchies that could be managed and monitored in top-down fashion and that could channel information upward to European district officers. In British Native Administration, the hierarchy ran downward from district officer to paramount chief, divisional chiefs, village chiefs, and sometimes ward chiefs. In French Africa, the basic administrative template ran from Commandant de Cercle to cantonal chiefs, to village chiefs.⁴⁹ Territorial jurisdictions were nested like Russian dolls, confirming rank not only of the chiefs but also of the jurisdictions themselves, with locales that were the seat of higher-ranking chiefs qualifying for better administrative and social infrastructure and elevating the status of leading clans in these localities. These territories and chiefly hierarchies constituted the basic administrative units and the basic administrative machinery (the "local states") of rural Africa under colonial rule.⁵⁰

This is the architecture of what Jean Schmitz (1991) called the "state constituted differently at different levels [or scales]" (*l'état à géométrie variable*). It was based on the coercive, formal-legal or bureaucratic, and secular authority of the colonial state at the very top levels. At the local levels, nonsecular, hereditary, and neocustomary authority prevailed. Mamdani stresses that in the neocustomary jurisdictions, this institutionalized a form of authority that was, in its essence, arbitrary. Because colonial administrative theory held that African custom was flexible and evolving, the customary authorities were given wide prerogative in defining the rules of customary land tenure flexibly and as they saw fit.⁵¹ Personal rule

⁴⁹ Chieftaincies were "reestablished" as the basic administrative units throughout French West Africa in 1917. Thereafter, it was policy and standard procedure to subject Africans to African intermediaries who were appointed or confirmed in office by the French.

⁵⁰ On the local state, see Mamdani 1996, especially 21-2.

⁵¹ In colonial administrative practice, the distinction between custom and law was blurred, since what was customary was supposed to be law. Chanock (1998:76-77 *inter alia*) describes how the European authorities resisted, until late in the colonial period, the writing-down or formal codification or legalization of customary law (as implemented in customary courts) for fear that

unrestrained by codified principle or law was thus a *deliberate feature* of the colonial state in the rural areas. The result was the bifurcated form of state authority that Mamdani defines as the essential feature of the colonial state in Africa.

Creating systems whereby customary rulers could govern tribes within their ancestral homelands, supposedly according to somewhat modernized and improved versions of legitimate age-old precepts and rituals, required the administrative recognition or constitution of “tribes.” Chanock uses the term “new tribes” to distinguish the groupings recognized by the colonial state from precolonial territorial, identity-based, and political groupings.⁵² Each person (or, in some cases, household head) had to be assigned a state-recognized tribal affiliation. This was a precondition for attaching persons to the chiefs who were to exercise personal authority over them, for processing cases through customary courts (since customary law varied across the ethnic groups within one colony), and for implementing the customary land tenure regimes.

Property and citizenship under the customary land regimes. The customary land regimes were founded on the principle that the land encompassed within a chiefly jurisdiction (an officially delimited ethnic homeland) was the corporately held endowment of a descent-based community. Chiefs or other customary leaders were supposed to manage this corporate endowment on behalf of all members of the group. Membership in the descent-based corporate group was thus understood to confer a land entitlement. In John Bruce’s (1988, 42-43) description of the generic features of indigenous land tenure systems prevailing in Africa, “all members of the community, *a community most commonly defined by descent*, are considered entitled to land. This will often be the case whether or not they are residents, and whether or not they are farmers. . . . [T]he tenure system bases access to land on membership [in the community].” The political status of

this would “freeze its natural development.” (Chanock 1998: 34, 52-3, 56, 61, 65). Imperial ideology held that within the framework of the ever-evolving customary governing systems, Africans could be led gradually, over several hundreds of years, toward European-style political and legal systems.

⁵² Those not certified as official ethnic groups or tribes thus did not get their own homeland.

state-recognized membership in an official “tribe” or ethnic group thus became an asset in itself: it conferred a land entitlement.

Among the people working and residing within a given rural jurisdiction, the customary land regimes imposed a distinction between those who had the economic right of land entitlement within the ethnic homeland, and those who did not. Such distinctions became particularly salient where cash-crop production developed in zones of low population density, and in-migrants provided labor to expand the cash-crop economy. Those not recognized as members of the descent-based landholding group—referred to in English and French as strangers, outsiders, “acceptees,” *étrangers*, or *allogènes*—were not entitled to land by birthright. Strangers could gain provisional access to it with the permission of certain community members, contingent on acceptance of their politically subordinate status within the community (and usually some kind of payment to the customary landholder). Under these political arrangements, a stranger could not “represent” the descent-based collectivity (because he or she was not regarded as a full member of the group) by holding communitywide political office or by participating in the interpretation and enforcement of local custom. As Painter and Philo (1995, 107) put it, customary authority created or reinforced “political system[s] of inclusion and exclusion” by stipulating who was considered a full citizen in the customary jurisdiction (with political rights and economic rights of membership) and who was not.

Across much of rural Africa, the definition of “who is a stranger” and the second-class citizenship status of strangers tended to harden over time. When land was abundant and labor was scarce, assimilation of strangers into the landholding collectivity (through marriage or investment of “sweat equity,” for example) tended to be relatively easy.⁵³ As land became scarcer or as its

⁵³ Berry (1988) stresses that these social identities and the rights and entitlements that they confer have sometimes been ambiguous and negotiable. Outsiders could sometimes be assimilated into in-groups, for example through marriage or labor contributions, by bequest, or on the basis of personal qualities or achievements. She notes, however, that “through native courts and customary law, policies of colonial and postcolonial governments often served to reinforce rather than to attenuate the importance of [ascriptive] *social identity or status* as determinants of access to land

political and economic value rose, boundaries of corporate lineages tended to be defined in more restrictive terms, and hierarchies of rights and dependency became steeper.⁵⁴ Institutionalization of colonialism's customary land tenure systems was itself a factor that worked to harden landlord-stranger distinctions. These relations create hierarchy in localities: in some rural districts of west and central Africa today, up to half of all farmers hold "derived rights" to land (i.e., the conditional access granted to ethnic outsiders based the permission of indigenous landholders).⁵⁵

The customary land regimes also encoded sociopolitical hierarchy *within* corporate landholding groups. In much of Sahelian West Africa, for example, communities are structured by land-access hierarchies *among and within lineages*. Dahou and Ndiaye (2008, 61)⁵⁶ describe lineage hierarchy in land systems in contemporary Senegal:

Inequalities in access to land can be explained by the way the land rights system works. It defines a hierarchy of access that privileges the settlement's founding families, then the non-founding families that have been established for a long time, and giving last place to new arrivals. Often, among families that are not members of the founding group, you find those that are marginalized in political decision making—including former slave families and casted groups—who gain access to good land only in very limited quantities. This discriminatory structure of access to the best land shows clearly that the hypothesis that "customary law is superior to other land systems when it comes to equity" does not stand up to analysis.

Colonialism's customary land regimes also recognized or imposed land-access hierarchies based on gender and age, establishing and shoring up patriarchy at the molecular level of the lineage and family. The customary courts, for example, helped shore up senior males' (lineage or family elders) control over family lands, even as the commercialization of agriculture and the growing importance of off-farm incomes worked to erode the generational hierarchies.⁵⁷

and landed assets" (Berry 1988, 63). Skinner (1965) wrote that "permanent stranger communities" appeared in many West African communities from the eighteenth century onward.

⁵⁴ Austin (2008), Chauveau (2000, 2001), and others track shifts in balances of power between landlords and in-migrants (in relations of production and land access) over time, showing that these changes can reflect changing factor prices *and* the changing land-tenure strategies of the colonial and postcolonial governments.

⁵⁵ See Lavigne Delville et al, 2002.

⁵⁶ my translation.

⁵⁷ In *Fathers Work for Their Sons*, Sara Berry described such processes in southwestern Nigeria's cocoa-producing communities.

The customary land tenure regimes institutionalized property systems in which individuals and groups held *multiple and overlapping rights* in land (Berry 1988). Land was held corporately by members of a real or imagined descent-based group (but farmed by extended households and families). Under the customary tenure principles, the descent-based community was seen as a nested hierarchy of social collectivities that ran from the encompassing tribe or ethnic group, to the major subgroupings by lineage or clan, and to hierarchically ordered household groupings at the molecular level of society. Layered and overlapping property rights bound individuals and groups to larger collectivities, and thus creating and shore up the social cohesion within tribes, lineages and families that colonial rulers prized as the essence of “tribal society.” Multiple and overlapping rights produced a multiplicity of interests in a particular piece of land, with different rights to a given piece of land are held and exercised separately by different groups of people.⁵⁸ Communities as a whole gained a collective interest in protecting a land endowment in which each member, by the principles of customary tenure, had an entitlement. Lineages and clans held corporate interests in land, whether or not they were able to act as a group to “govern the commons” effectively.

The net effect of these property relations and rules was to create political hierarchy within and across the landholding communities that were the basic units of government under colonial rule.

The integrity of customary land tenure regimes as systems for enforcing hierarchical authority at the local level, and for enforcing the cohesion of descent-based group, rested in large part on the principle of nonalienability of land. This is why colonial administrations sought to suppress land sales within the chiefly jurisdictions (Phillips 1989; Chimhowu and Woodhouse 2006; Rathbone 1993). They realized that the development of land markets would not only

⁵⁸ As Reyna and Downs (1988, 17) explain, “More than one person has valid claims to the same plot, either for the same or different purposes”—under rules of joint inheritance, for example. Also, community members may retain rights to pasture and forage and to traverse a landholding, as well as reversionary rights to the land, should it fall into disuse or the landholder die with no heir.

undermine chiefs' authority over land and over community members but also lead to the fragmentation of the hierarchically structured lineal descent group, headed by male elders, which the colonial rulers sought to constitute and reinforce as the basic unit of landholding and the basic political unit. Jack Goody writes that the colonial governments recognized that the development of land markets would "dissolve the 'natural' hierarchy of land rights implicit in a lineage system," or any system based on corporate ownership with multiple and overlapping rights (Goody 1980, 152).⁵⁹

Impetus for reproducing of these arrangements did come entirely from the state, however. In rural localities, the elite -- chiefs and members of dominant lineages -- had a long-term interest in defending their political prerogatives over land, even if they also often had short-term interests in strategic sales that would generate revenue (as Onoma 2010 and Berry 2013 pointed out in contemporary Ghana). At the grassroots level, there were smallholders and subordinate members of corporate landholding groups whose land rights were threatened by the rise of markets (or by the possibility of expropriation by the colonial state, a chief, or a lineage head). Many of them developed vested interests in customary land rights, and in the principle that access to land in their ethnic homeland was a birthright recognized (if not always honored) by the state.⁶⁰ The customary structures also gave senior males authority over land farmed by women and youth, as well as claims to the labor of these subordinate household members.

Most of the independent African governments sought to tap into the political potential inherent in customary land tenure and in customary authority over land allocation. Whether by

⁵⁹Goody (1980, 152) has made the related but even broader point that "land registration dissolves the hierarchy of land rights implicit in a lineage system . . . It can never be simply the recording of existing rights, since the very fact of writing is to reduce to a single linear dimension the complexity of actual tenurial rights [which are multiple and overlapping], which in a sense are the social structure of rural communities."

⁶⁰ Chanock makes this argument for parts of southern Africa that saw extensive development of labor systems based on out-migration of men from the rural areas. Chiefs and elders were much more successful in maintaining their authority over women than over men. As Chanock (1998, 235) says of colonial Malawi and Zambia, "With the development of migrant labor, and of agriculture for the market, settlements and families fragmented . . . At the same time, farmers had to squeeze kin labor for market purposes, leading to an emphasis on traditional obligations."

constitutional dispensation, law, administrative or executive decree, or practice, most governments have confirmed the role of chiefs, elders, emirs, *lamibe*, or other *autorités traditionnelles* in allocating access to farmland and pasture and in adjudicating land-related disputes arising over boundaries, inheritance, and transactions. These same community-level authorities also often retained the prerogative in allocating access to shared resources such as community forests, water points, and pasture.

Explicit examples abound. The glossary of a 2009 African Development Bank (ADB) report on land management in Cameroon gives a generic definition of “customary land law” that could have been taken straight from the playbook of high colonialism:

[Customary land law is] all unwritten rules which make up the customs of a people (as against statute law). Customary land law governs rights over land. It is the method of managing land and land-related rights in accordance with native customs. It varies from region to region and from one ethnic group to another and also over time owing to economic, social and political changes. (ADB/ADF 2009, Annex 2, 2)

The ADB also reports that in Cameroon,

“The customary land management method is still current . . . Many Cameroonians are content with using customary or tradition systems to acquire land. Discussions with divisional and regional services revealed that “in actual fact, traditional rulers do not feel concerned [with the ambiguities of statutory law]; they even sell customary lands.” [T]he administration follows and regularizes the practices; . . . the traditional ruler settles people and the administration confirms the action.” (para. 4. 2. 6 and p. 10)

Ghana’s 1992 constitution makes chiefs owners and managers of stool and skin lands, which are lands attached to the chieftaincy as an institution and supposed to held in trust for the members of the collectivity. To reconcile the concept to ownership with the chief’s role as political representative, the constitution “recognizes the concept of [chiefly] trusteeship in landholding by emphasizing that those with responsibility for managing land must act in the wider interests of their communities.”⁶¹ In Benin, “customary laws were codified (accurately or not) by the French

⁶¹ Article 36(8) of the 1992 Constitution states: “The state shall recognize that ownership and possession of land carry a social obligation to serve the larger community and, in particular, the state shall recognize that the managers of public, stool, skin and family lands are fiduciaries charged with the obligation to discharge their functions for the benefit respectively of the people

in *Le Coutumier du Dahomey* of 1931 . . . which was still used in the courts until 1996. . . . Land cases and inheritances cases [were heard in] “*la chambre traditionnelle des biens*.”⁶² Postcolonial Kenya endorsed a more secular and bureaucratized version of customary land tenure in the former ethnic homelands, or what the colonial administration called “native land units”:

Native Lands Trust Boards [were] established by the Native Lands Trust Ordinance of 1938. At independence [in 1963], these native lands became trust lands, and were vested in county councils to hold them in trust for the benefit of all persons residing thereon (Migai Akech 2006).

In Sudan in 1994, the government *reinstated* “a system of local administration that relied on customary authorities, the old model inherited from British colonial rule. . . . Once installed in office, state-recognized chiefs could use their power . . . to allocate land [and] organize local militia (Reno 2010b, 329).⁶³

Meanwhile, the notion of customary *rights* remains politically entrenched in most of rural Africa, where it is wielded for diverse purposes by the multiple actors—at all levels of state and society—who have a stake in the political prerogatives, protections, and promises it can provide. So it was that in Kenya, in the midst of raging debate over land tenure law in 2005, the Kenya Land Alliance declared in an act of rightful resistance (O’Brien and Li) that “the Kenyan customary concept of ownership of land still prevails.”

Since customarily no individual in a community owns land, land is owned by all collectively for the benefit of each and every member of the community. The result is that land relations in many parts of Kenya are still actualised on the basis of customary law. For instance, claims to land are still being made on the basis of customary law even where such land is registered under the Registered Land Act. Moreover, in practice, before Land Control Boards sanction any land transaction, they work with community elders to determine the different rights of the members of that community . . .

of Ghana and of the stool, skin or family concerned, and are accountable as fiduciaries in this regard.” Kassanga and Kotey (IIED, 2001, 1).

⁶² Susanna Wing, “Legal Pluralism and the Politics of Family Law Reform in Mali and Benin,” ms. 21.

⁶³ Reno 2010, 319-41. Similarly, Forrest (2003, 213) writes of the “reestablishment of Mandjack kingships” in Guinée-Bissau after 1987.

[C]ustomary lands are managed and controlled by the County Councils, which hold them in trust for communities (KLA 2005).⁶⁴

Postcolonial governments have been deeply and actively implicated in upholding and reproducing the institutions and political relationships embedded in the (neo)customary land tenure regimes. It is incorrect to see customary land regimes as informal in the sense of existing beyond the purview of the state, or as subverting government efforts to administer the rural domains.

The Statist Land Tenure Regimes

Indirect rule through customary authority was not imposed everywhere in colonial Africa. Within some geographically delimited jurisdictions in every African colony, the colonial state made itself the direct allocator, enforcer, and manager of rural land rights. Every student of African history knows that in the white settler colonies of Kenya, Zimbabwe, South Africa, Namibia, and Mozambique, colonial states alienated vast domains from African land users, created separate administrative and political institutions to govern these spaces, and assigned rights to arable and pasturable land to European settlers or foreign companies for the creation of commercial farms, plantations, and ranches. Less is known about where and why postcolonial African governments have assumed direct authority over land allocation, the management of land use, and land-rights adjudication in areas of smallholder and peasant farming. These are the main concern here.

Both colonial and postcolonial governments have created schemes to resettle *African* populations in new territory, either to clear the way for other forms of land use (including use by European settlers or agribusiness), relieve overcrowding in densely populated districts, or establish peasantries on previously unfarmed land.⁶⁵ Examples of postcolonial settlement schemes are found in Kenya, where the government resettled over 500,000 Kenyan families on Rift Valley

⁶⁴ Kenya Land Alliance (KLA), Issues paper n. 4, 2005.

⁶⁵ Amselle (1976, 24) refers to these as movements of rural African populations that were directed, oriented, or planned by the state. See Silberfein 1988, 51; Adepoju 1982.

farmland in the 1960s and 1970s; Côte d'Ivoire, where 75,000 Baoulé were resettled after being displaced by construction of the Kossou Dam in 1970; and in Rwanda, where 1970s and 1980s settlement schemes placed tens of thousands of families on marshlands reclaimed by government, or pasturelands that had expropriated by the state. Governments have also asserted direct control over land for the creation of cities, public works projects, transportation infrastructure, airports, ports, agricultural research centers and demonstration farms, military camps, and landed estates that can be given to political elites. They have cordoned off forest reserves, national parks, and game preserves, which become off-limits to farmers and, often, most pastoralists as well.

In such areas, land authority is not devolved to state-recognized customary authorities. The central state itself is a direct allocator and manager of land access and use. We refer to this type of land control regime as “statist” to underscore the *directness* of the state’s role in allocating land and, thus, to distinguish this mode of land governance from the *indirect rule* arrangements that define the so-called customary land tenure regimes in Africa.⁶⁶

Under colonialism, forcible displacement of settled farming communities or long-established pastoralists was a basic tool in the state’s repertoire of techniques of territorial, resource, and political control. As Sara Berry has said, “Colonial officials resorted, time and time again, to moving people from one location and settling them in another. . . . Displacement was commonplace” (Berry 2002, 641). Kraler (n.d., 13) writes of Belgian Africa:

[There was a] wide policy of “social engineering,” embarked upon from the 1920s onwards, over the course of which large numbers of people were displaced for various reasons, including the establishment of national parks, economic reasons (labor), on the grounds of public health (malaria and sleeping sickness), for administrative reasons (regroupment and villagization), and because of “overpopulation and landlessness.”

⁶⁶ In practice and in actual cases, the analytic distinction between customary and statist land regimes can blur (as, for example, when governments appoint new chiefs to rule over populations in government-created settlement schemes, or when state-recognized customary authorities are pressured by government to settle strangers on customary land). As a first cut, however, the distinction between customary and statist land regimes is useful. It directs attention to the particular locus of authority over land in these jurisdictions, and the complex citizenship and property questions that can arise.

Forced displacements often involved resettlement or relocation schemes of some sort.⁶⁷ Often, resettlement was an end in itself. Mafikiri refers to *migrations organisées* or *migrations officielles*, wherein states have directed movements of rural African populations into new territories to relocate displaced populations or to develop new agrarian frontiers.⁶⁸ In *Modern Migrations in West Africa* (1974), Samir Amin referred to such initiatives as state-sponsored movements of agrarian colonization. Receiving areas have sometimes been developed as actual *settlement schemes* in which the state itself built roads, demarcated and subdivided settlement areas, and assigned settlers to particular plots of land. As Mafikiri puts it, in-migrants are “administratively inserted” into localities or subregions.⁶⁹

State-sponsored movements of agrarian colonization were promoted to relieve population pressure in high-density areas, control disease, increase agricultural production, assert political control over rural populations through creation of settled farming communities (the creation of peasantries), or clear the way for dams and reservoirs. John Kabera provides some examples in “Rural Population Redistribution in Uganda since 1900,” which explains that resettlement schemes were common in colonial Uganda.⁷⁰ They were aimed at combating tsetse fly and increasing agricultural production, relieving population pressures, and finding employment for youth. “Indeed, resettlement schemes in general were the vogue in population redistribution policies” (Kabera 1982, 199). Kabera elaborates:

Large-scale repopulation of the empty areas started in the 1940s aimed at relieving population pressure in certain densely populated parts of the country. Kigezi district, rather than other equally densely populated districts, caught the eyes of the government from the middle of the 1930s. . . . Enthusiastic agricultural officers and administrators [concluded that there were] land pressure problems. . . . [A] committee was set up within the Department of Agriculture in 1944 to locate immigration areas. Organized

⁶⁷ Claassens (Sept. 2005) comments that even the South African government spoke of “resettlement” of “successive waves of people after forced removal from ‘white’ South Africa.”

⁶⁸ Mafikiri, in Mathieu, Laurent, and Willame, eds., 1996-97. On 1940s and 1950s settlement schemes, see Kimble 1960, ch. 5. On cases of villagization (e.g., in Zambia, Angola, Mozambique, Ethiopia, Tanzania, Kenya), which may or may not involve the reallocation of farmland, see Silberfein in Silberfein 1998, 51-69.

⁶⁹ Mafikiri in Mathieu, Laurent, and Willame 1996-97.

⁷⁰ Kabera 1982, 183.

resettlement schemes started in 1946. . . . Thinly populated areas . . . were selected. By the end of 1954, 25000 persons had been resettled in north Kigezi; another 13000 were settled there between 1954 and 1961. Meanwhile west Ankole settled 8500 persons between 1951 and 1954 (Kabera 1982, 183).

Both colonial and postcolonial governments encouraged and facilitated the settlement of migrants onto “state controlled agrarian frontiers,”⁷¹ or “new lands” opened up to smallholder farming by the development of irrigation, swamp reclamation, tsetse fly eradication, the drilling of boreholes to create permanent sources of water, expulsion of pastoralists, or the abandonment of properties by white settlers. As table 2.2 shows, cases in point can be found in colonial and postcolonial South Africa, Rhodesia, Namibia, Kenya, Rwanda, Uganda, Tanzania, Nigeria, Ghana, Mali, Sudan, Ethiopia, Senegal, Belgian Congo/Zaire, and others.

In these situations, it is the state that regulates land access and land rights. The existing ancestral claims to land rights in zones of state-sponsored or enforced in-migration have sometimes been “fully extinguished” by formal decree of state authorities. Often, central authorities have simply *not recognized* ancestral claims or established user rights, thus giving practical meaning to the principle that a property right not honored by the state is no property right at all. There are places where prior users’ ancestral rights have been subordinated, in the eyes of the state, to settlers’ land-access rights, which are granted and guaranteed by the central state. This may make the ethnic insiders, or autochthones, “involuntary hosts of uninvited guests.”⁷² At the extreme, they may believe that they have been expropriated outright by the

⁷¹ Claire Médard (2009, 342), writing of the southern slopes of Kenya’s Mt. Elgon in the 1980s and 1990s, says that there are situations in which “open spaces” created by the *pax coloniale* (i.e., the end of the slave trade and suppression of war and raiding among African groups) have been “colonized” or repopulated by African settlers in the colonial and postcolonial periods, but in which the state itself has not asserted control over the settlement process. (See Shack and Skinner 1978.) This seems to be the situation in parts of the Middle Belt of Nigeria, especially the Jos area studied by Netting, Stone, and others. Here, neither state authority nor state-recognized customary authority is strong.

⁷² Shack and Skinner 1978, 5.

Table 2.2. Settlement schemes/ state-sponsored zones of agrarian colonization: Examples

Country	Scheme name	Timing	Purpose	Number of people	Land area	Sources
Sudan	Gezira, 1926-present	nationalized in 1950	development of irrigated cotton schemes (wheat)	100,000 tenants and 400,000 wage workers ¹ (1980); 120,000 tenants (2000)	1,000,000 hectares ²	Abdelkarin, 1986; Babikir and Babikir, 2007: 336
Kenya	Million Acres and other smallholder schemes	1960-80	peasantization	500,000 (1970)	900,000 ha. (1979)	Oucho 2002:51, Leys 1975:75.
Kenya	Coastal SS, (incl. Haraka schemes)	late 1960s-1980s	relieve landlessness	70,790 families (as of c. 2007)	351,000 ha (c. 2007)	GOK, Min. of Lands, c. 2007: 2
Côte d'Ivoire	Kossou Dam, AVB and coffee-cocoa schemes in SW	1970-1976	resettle those displaced by dam	75,000 displaced, of which 4,000 to SW. ³ 63 new villages constructed.	1,500 km ² flooded	Lassailly-Jacob 1986, AVB 1971
Ghana	Volta River Authority Resettlement	mid-1960s	resettle those displaced by Volta Dam (Akosombo)	80,000 displaced from 700 villages consolidated into 52 new villages	8,500 km ² flooded	Ninsin 1989:179
Senegal	Delta, SAED (CR de Ross Bethio)	1965- 80s	irrigated rice cultivation, peasantization			Rodenbach 1999; D'Aquino et al, 2003; Faure 2005; Dahou
Mali	Office du Niger	1940	settlement of irrigated lands	12,000 (1940), 42,000 (1975)	1,000,000 ha. [88,000 irrigated](2005)	Crowder 1968: 321; Colvin 1981: 272; Beusekoum
Tanzania	Ujamaa villages	mid-1970s	villagization	50% of national pop. (approx. 5 million persons) relocated to 8,000 new villages		
E. DRC (Congo)	MIB, N. Kivu schemes	1937-1955	relieve overcrowding in Rwanda, peasantization	85,000 (1955)	350 km ² (35,000 ha)	Mathieu et Mafikiri-Tsongo 1999: 24
E. DRC (Congo)	UNHCR resettlements	1959-1963	installation of Rwandan Tutsi refugees	100,000		Mathieu et Mafikiri-Tsongo 1999: 44
Rwanda	official <i>paysannats</i>	1970s	occupy swamp and pasture, relieve land pressure	~400,000 (1976)		Olson 1990: 23.
Burundi	<i>Villages de la Paix</i>	2003+	resettle retournees, ex-fighters	16 villages (2010), ~30-300 families (est.) each	throughout nat'l territory	IRIN reports; IRIN 5 août 2010
Cameroon, SEB	SEB and Sodecoton ventures	1978-1992	promote cotton cultivation, peasantization	~19,000 (SEB), 33 new villages		Seignobos 2006
Zimbabwe settlement areas	Model A-C Schemes	1980-89	settlement, peasantization	54,000 families (1990)(80% on Model A schemes)	3,000,000 ha, most as Model A schemes	Kruger 2007:75

¹ includes settled and seasonal wage laborers² 100 ha = 1 km²³ The AVB masterplan originally called for resettling 65,000 persons in the SW. Only 4,000 went under the auspices of this plan. Many followed later, under ad hoc arrangements (Lassailly-Jacob 1986: 334).

state and its clients. Settlers, for their part, are vulnerable if the state withdraws its protection, as Jewish settlers on Israel's West Bank understand only too well.

Statist land tenure regimes create structures and relationships of political control over farmers that differ greatly from those prevailing under the (neo)customary land tenure regimes. The in-migrants are *beholden to the central state* for land access, rather than to a customary chief, local landlord, or other indigenous host. Writing of settlers on Mali's Office du Niger irrigation scheme, for example, Robert Pringle (2006, 49) describes the position of the settlers vis-à-vis the state: "Because the *colons* [peasant settlers] from what is now Burkina Faso had no traditional rights to the authority's [i.e., Office's] previously vacant lands, they—and their dependents—remained uniquely vulnerable to central control." This dependency finds legal expression in the fact that farmers on peasant settlement schemes have rarely received private title to their land.

Just as the customary land regimes have had their stakeholders and defenders among land allocators and users, so have the statist land regimes. Chiefs realized that customary land law could be shaped and used to their own advantage, and that social emancipation of women and youth could erode their prerogatives and authority. Ordinary African subjects themselves realized early on that the principles of customary land tenure could be used to enhance lineage control over lands, to strengthen men's control over women, and (especially in east and southern Africa) to slow or limit further land expropriations by whites.⁷³ Ordinary people could claim "customary land rights" and invoke these as protection (not always effective) against chiefs and other privileged members of African society who would sell their land or take it. Those whose land rights had been granted directly by state authorities, without appeal to the customary land regimes, were in a different position. They had a vested stake in the national principle that "citizens have a right to live and hold land anywhere."

⁷³ Chanock (1998, 232) writes, "There was a strong defensive element [to Africans' use of customary land tenure] where Africans anticipated further expropriations by settlers."

III. Postcolonial Political Order and Authority-based Controls over Land

“A common saying in Burkina is that elections are won in the countryside, but that power is lost in town” (Hagberg 2002, 227).

In the urban areas, support for the government was minimal.
(Kenya Human Rights Commission 1998, 18)

“Our relatives back in the rural areas are much more exposed [than we are] to the pernicious pressure of the administration and the zealots of the rotten PDCI regime.”
(*La Voie*, n. 390, 7 jan 1993: p. 1-bis notes)

The drive to establish and maintain rural social and political order has shaped politics, state structure, and economic policy in ways that scholars of contemporary African politics have often not recognized. Crawford Young’s image of the African colonial state as *Bula Mutari*, “the rock crusher,” notwithstanding, colonial administrations were haunted by fears of “detrribalized” Africans, uprooted populations, rural uprisings, revolts, food shortages, and general disorder. Colonial authorities were explicit in crafting land and labor policies to thwart the rise of landlessness and full proletarianization. The customary land tenure regimes were created largely in response to such fears -- that is, to fix populations on the land, and tie them to chiefs who were trusted agents of the colonial state. This solution to the problem of governing the rural areas was not very stable, however. Colonial histories are punctuated with the record of anti-tax revolts, anti-chief revolts, and myriad other forms of rural resistance against colonial impositions and extractions, both overt and covert.⁷⁴ Rural insurgencies in Kenya and Cameroon in the 1950s were the stuff of colonialists’ nightmares. These radicalizations and mobilizations were not targeted at the European colonial rulers only, however. In southern Ghana, Guineé, Rwanda, Kenya, and Tanzania, anti-chief mobilizations fueled the nationalist movements that drove the colonial powers from Africa.⁷⁵

⁷⁴ Nigeria's Abeokuta anti-tax revolt of 1918 was an organized uprising of 30,000 persons (Falola 2009: 89-94).

⁷⁵ In *Political Protest in the Congo*, Weiss (1967:58 inter alia) wrote that rural radicalism was probably a more important force in African nationalism than previous scholars, who emphasized urbanization and migration as its causes, had allowed. On this see Mamdani 1996.

The second wave of independence, in 1975-80, was also propelled by rural political mobilization, this time in the form of peasant guerrilla wars in Angola, Mozambique, Guinea-Bissau, and Rhodesia/Zimbabwe. Independent Africa has also known its share of rural revolts and uprisings against local authorities and central regimes: examples include peasant uprisings and revolts in Western Nigeria in 1968-69 and in the Niger Delta region today, in western Côte d'Ivoire in 1970, and in Burundi in 1972 and 1988; the Mulelist rebellion of the early 1960s in Congo/Zaire; the Casamance secessionist movement in Senegal starting in 1988, and the rural insurgency that brought Museveni to power in Uganda in 1986.

Leaders of the newly-decolonized African states -- including Kenyatta, Nyerere, Nkrumah, Senghor, Adhidjo, and Mugabe -- felt the hot breath of the rural masses on their necks as they undertook to consolidate power. An immediate priority was to demobilize and “*encadrer*” (build political frameworks to contain) the peasantries that helped thrust them to nationalist victory. That these efforts have not always been successful underscores the point: rulers have had to pay a price to impose and maintain rural social order.

Early postcolonial state-building projects were largely about demobilizing and reasserting control over rural populations. Almost everywhere, restraining the arbitrariness of chiefly prerogative and eliminating taxes extracted by chiefs were initial steps in this process (often following similar initiatives undertaken by the colonial administrations in the 1950s, for the same reasons). Rural development programs were targeted at key ethnoregional constituencies. Even more ubiquitously, governments made aggressive efforts to promote smallholder access to land. Most African leaders relied on the expansion of livelihood opportunities for the rural masses through the extension of peasant farming onto “free land”—land that was unmortgaged, untaxed, and not bought and sold on the market. Through access to land, better access to markets, and the removal of many restrictions on the mobility of labor, rural majorities were incorporated into postcolonial political and economic systems. Hugon (2003) describes the Ivorian model of development “as based on migration of rural populations toward pioneer fronts.” Olson (1990,

133) reported that the spread of smallholder production to previously uncultivated land accounted for most of the 65 percent increase in land surface under cultivation in sub-Saharan Africa during 1950-76.

Members of growing populations could establish new households and take their chances as farmers, hoping for subsistence at least, and perhaps cash incomes from commercially oriented production. Established households could expand production and possibly cash inflows. Economic possibilities in the 1960s and 1970s were buoyed by the availability of land in many long-settled rural areas, the open land frontier in many places, and high world prices for the African export commodities produced by peasant farmers, including cotton, cocoa, coffee, and tea. Most African governments have implicitly or explicitly acknowledged what one Tanzanian land officer in the summer of 2011 called “the right of citizens to have access to land to meet their basic needs,” even if governments have often not honored this.⁷⁶ Many have deployed this principle cynically or opportunistically in expelling the unemployed from the cities in coercive “clean sweeps” or “back to the land” programs.

Writing about Kenya, Haugerud observed that the expansion of smallholder agriculture was “the soft development option” of the 1960s and early 1970s. This surely holds for most countries. The state’s interest in preserving the viability of smallholder agriculture, including the extensive model of expansion (opening new lands) on which it is based, “accord[ed] with its interest in preserving social order” (Haugerud 1993, 185-86). Writing in the early 1990s, Bruce and Migot-Adholla still assumed that unused arable land was abundant in most parts of sub-Saharan Africa (1996, 256).⁷⁷

Expansion of smallholder agriculture happened mostly through non-market channels and relationships. That access to land was politically-mediated, through authority-based

⁷⁶ Author’s interviews in Babati District, Manyara Region, Tanzania, July 2011.

⁷⁷ In Kenya as in many other places, the so-called new lands were often taken from pastoralists, as in parts of Senegal, Burkina Faso, Nigeria, Cameroon, and Tanzania. Writing in the early 1990s, Bruce and Migot-Adholla still assumed that unused arable land was abundant in most parts of SSA (1996, 256).

relationships, made land a political as much as an economic asset to be employed in the construction of the postcolonial political order. In most regions of smallholder agriculture, land has been administered as a political resource, rather than bought and sold openly on the market. Those in strategic land-allocation positions have been either neocustomary authorities whose land powers are recognized and (in many places) sustained actively by national political leaders, or direct state agents, such as uniformed settlement scheme officers, land officers, or district officers.

Postcolonial governments reformed and modified chieftaincy institutions, but few abolished them. Most African rulers undertook to subordinate the (neo)customary authorities more firmly to the center. Most chiefly hierarchies were decapitated at the subdistrict level of government, removing the most influential and visible of the chiefs and placing lower-ranking customary authorities under the watch of District Officers and *Préfets*. Some governments actually created chieftaincy as a local institution where this had not existed before (such as in farming districts of the Rift Valley of Kenya). Others formalized hierarchies of neotraditional authority through constitutions, law, or decree, as noted above.⁷⁸ Many independent governments created or bolstered secular local government institutions such as rural, district, or town-level councils into which so-called customary authorities were incorporated. This usually worked to restrain or dilute chiefs' prerogatives, especially in matters not related to farmland, but did not undermine them. Such reforms extended central government and ruling party influence in the localities *but usually preserved chiefly or neotraditional authority in both form and substance* (if not extent). Land allocation and land-dispute adjudication often remained arenas of neotraditional

⁷⁸ For example, Cameroon's chieftaincy decree (law) of 1977 provides for three classes of chiefs: first-class chiefs, who enjoy the allegiance of two second-class chiefs within an administrative division; second-class chiefs, who claim the allegiance of two third-class chiefs within an administrative subdivision; and third-class chiefs, whose jurisdiction is restricted to villages or sections of towns or cities. The law defines chiefs as auxiliaries of the state, which authorizes their appointment, ranking, and emoluments⁷⁸[We have closing quotation marks but no opening quotes. If it is a quote, delete my added commas. If it isn't, just delete the closing quotation marks.] (Eyoh 1998, subsection 1).

practice, giving chiefs, *laimbe*, *marabouts*, and other so-called customary or neotraditional elites powerful levers of influence over the daily lives and political options of rural people subject to their authority. In most countries, the exceptions to this rule were found in subnational jurisdictions—the enclaves, zones, territories, regions, districts, settlement schemes, or project areas—that were subject to statist forms of land control.⁷⁹

In these ways, most postcolonial regimes institutionalized chieftaincy at the lowest levels of territorial administration throughout most (but not all, as we have argued) of the national space, incorporating the customary authorities into hierarchical patron-client networks that reinforced the center’s ability to incentivize and monitor their behavior. Chiefs and other neocustomary leaders often remained the gatekeepers, political brokers, and local strongmen that they had been under colonial rule, mediating local citizens’ access not only to land and local justice but also to many of the opportunities offered by government.⁸⁰

The electoral potential of customary authority was evident early on in the capacity of chiefs in some jurisdictions and territories to mobilize electoral blocks for the nationalist parties. Apter notes in the 1950s that “traditional forms of social organization were a kind of ‘natural’ mechanism for mobilizing rural voters [and] traditional government was ready-made party machinery . . . [Politicians] could use traditional methods to maintain solidarity.”⁸¹ Although the colonial chiefs were reviled in some places, in other places chiefs and other rural political authorities contributed to nationalist victories and were rewarded as allies of postcolonial rulers (e.g., Senegal, Niger, eastern and northern Côte d’Ivoire, northern Ghana, northern Cameroon, and Sierra Leone). Lombard (1967, 260) wrote that in the Zerma and Hausa zones of Niger,

⁷⁹ Colonialism’s customary authorities have also been abandoned by postcolonial regimes when local opposition to chiefs fueled autonomous forms of rural political mobilization (as in key regions of Kenya, Tanzania, and Guinée in the 1950s), making chiefs more of a liability than an asset in imposing local order.

⁸⁰ Bierschenk and Olivier de Sardan 2003, 164.

⁸¹ Apter, Ghana 1955 [1972, 2nd ed.], 340-41.

chiefs supported Rassemblement Démocratique Africain (RDA) militants, and that RDA leaders “were thus forced to accommodate those responsible for their political victory.”⁸²

These arrangements served the interests of *postcolonial* rulers who could count on neocustomary elites to deliver the votes of rural communities at election time.⁸³ Elsewhere, where peasant farmers have received land (or permission to occupy it) directly from state agencies, on-going access to that land may well be subject to administrative prerogative. This is a powerful lever over the political behavior of citizens in such circumstances. For all the “urban bias” in African economic policy, the fact remains that most governments have consistently relied on the rural hinterlands as bastions of political and electoral support. As in Latin America in the 1920s, the rural constituencies played the critical role of offsetting the electoral weight of urban populations that tended to be more volatile, mobilized, liberal, and leftist.⁸⁴

Return to electoral competition in many African countries after 1990 renewed and even heightened the salience of rural territories as critical power bases in national politics (Geschiere and Gugler 1998, 312-13). Incumbents faced with electoral challenge, often for the first time in a generation, turned to rural voters in efforts to stave off urban-based opposition and prodemocracy movements. Moi in Kenya, Rawlings in Ghana, Diouf and later Wade in Senegal, Bédié in Côte d’Ivoire, and Biya in Cameroon, to name a few, invested in mobilizing rural voters in their bids to counter urban reform movements and retain their hold on national office.

⁸² See Wallerstein 1967, 500-506.

⁸³ As Magloire Somé (2003, 238) says of postcolonial Burkina Faso, “The chiefs understand that the intellectuals go to them for electoral purposes and for nothing else.”

⁸⁴ A large literature on electoral politics in agrarian societies links the resource-allocation powers of local elites and government officials to their ability to mobilize and discipline rural voters. See Huntington 1968, 435 *inter alia*; on Morocco, Leveau (1985) and the Middle East, Kazemi, Farhad, and Waterbury 1991, 15 and Waldner 1999; on Central America, Anderson 2006; and on South Asia, Mick Moore, 1997. The same dynamic is visible in Mexico under the PRI, in Japan under the Liberal Democratic Party, and in postcommunist Eastern Europe, where *ex-Communist* leaders of Eastern Europe maintained ties with rural districts that continued to support them long after liberal social movements had defeated Communism in the cities (Tucker 2006). Such relationships are stark in much of rural Africa.

The strong rural bias in many of Africa's electoral systems reinforces this argument. Samuels and Snyder (2001) found Africa and Latin America to be the two world regions with the highest levels of electoral malapportionment. Of seventy-eight countries worldwide, five of the ten most malapportioned are in Africa. In Kenya in the 1990s, for example, each rural vote outweighed votes from the most populous urban jurisdiction by a margin of over 2 to 1.⁸⁵ This was convenient for the incumbent: As the Kenya Human Rights Commission (1998, 18) reported, support for the government was minimal in the urban areas.

Malapportionment's effects are magnified by significantly higher voter turnout rate in the rural areas in many elections, a tendency that runs directly counter to modernization theories that predict that city dwellers' higher incomes and education levels will drive up their political participation rates. In Mali, one of the poorest and least-developed countries in the world, for example, turnout rates in the 2002-07 elections averaged almost twice those in the capital city, Bamako.⁸⁶ From a party system perspective, rural constituencies often look like one-party states, where, as Schattschneider (1960, 83) says, "Elections are won not by competing with the opposition party, but by eliminating it."

The ability of those in positions of political authority to offer land access or land tenure security in exchange for political compliance has constituted a source of political leverage over rural communities and rural voters. This arrangement has been stable across much of the

⁸⁵ Maupeu 2003, 159. He writes that "The KANU regime has governed the country by denying the cities. . . . This phenomenon has become even more accentuated in the era of multipartism (2003, 159).

⁸⁶ Wing 2010, 97. Fauré (1993, 325) observed the same thing in Côte d'Ivoire's elections after 1980: "It is noticeable the participation rate in the urban areas is significantly lower than that in the rural areas." For him, this was at least in part because "networks of political domination in Africa are frequently strongly hierarchical and personalized, often forming a monopoly at the level of the local community" (1993, 325). Similar observations have been made for Benin: "[T]he scope of action enjoyed by the political parties . . . is largely restricted to the major urban centers. In cases where votes are shared between different political parties [in rural localities], their allocation seems to run along existing lines of local alliance and conflict and does not reflect an ideological choice between contending parties. Rural political parties do not structure the local political game in the rural milieu" (Bierschenk and Olivier de Sardan 2003, 164). Wantchekon (2003) reported that in democratic Benin from 1996-2001, 92% of the country's 84 electoral districts were not competitive. See also Barkan 1995.

continent for much of the postcolonial period because it has been the core of an implicit social contract between rulers and much of the rural poor. Ordinary people have been subject to the political hierarchies anchored in land control in exchange for access to land. The prevailing property regimes have also created strong land-related incentives for individuals and families to invest in ethnic identities, rural kinship networks, and membership in ethnic groups that claim property rights in state-recognized rural homelands. Urban-rural straddling (one foot in the city, one foot in the countryside) now appears to be a structural feature of livelihoods most African economies. The pervasiveness of straddling guarantees that many of the urban poor retain a strong stake in defending the land entitlements, property claims, and political relations that support families' access to land in the rural areas.⁸⁷

Political order rooted in these property-cum-political ties has been partial and contingent. Africa's political, economic, demographic, and environmental changes since the early 1990s have revealed many of these contingencies, destabilizing what often appeared to be self-sustaining, even natural, forms of rural political order. Analyzing these processes and figuring out what they reveal about state structure and political order in Africa is what motivates this study.

[A-head]Conclusion

Land tenure regimes of both customary and statist character structured the political incorporation of rural communities and peasants into expanding national orders, albeit in different ways and, as this book argues, with different political consequences for state-building, ethnic politics, rural political mobilization, and electoral dynamics. Authority-based controls over land have provided postcolonial rulers with the means (as material resources and selective incentives) and the institutional infrastructure (in the form of political hierarchies and governed spaces) for establishing politically mediated access to livelihoods for large majorities. These resources and

⁸⁷Gould 1995, 134-35. [As Widner (2004, 375) noted in a discussion of Tanzania, slow or stagnant economic growth raises the value of land claims and land access, "absent alternative ways to earn an income to put food in the mouths of family members."]

institutional arrangements have been employed to tie rural populations to national governments and into national political economies.⁸⁸ Rulers have had an interest in sustaining the prevailing, authority-based modes of control over land: these help them stay in power. They do so by reducing the political autonomy of land users and rural communities, giving the rulers control over resources to be used as patronage (or punishment), underpinning bargains with local strongmen who allocate resources and control subnational territorial jurisdictions on behalf of central rulers. These same land regimes work to organize the individuals and households making up "the rural masses" into local-level political collectivities that tied to neocustomary leaders, territories, and land entitlements. These are nested within larger ethnic territories or "homelands," thus constituting ethno-territorial constituencies that can bargain and compete against each other for benefits that national rulers can provide.

The land tenure institutions that are the focus of this analysis are core products of the colonial and postcolonial state-building projects. They produce ethnicity, social hierarchy, and political hierarchy within discrete rural jurisdictions, structuring politics in ways that largely reflect the deliberate choices of rulers. Rulers have not made these institutional choices in a vacuum or with complete autonomy: rulers themselves have been constrained to seek to retain power by undercutting rivals, preempting the emergence of broad-based electoral coalitions against the incumbent, fragmenting and deflecting redistributive pressures, and avoiding famine, social collapse, and uprisings of the poor.

Pressure on the land tenure arrangements described here—due to demographic pressure, environmental stress, and rising land values—is now endemic and widespread, heightening the stakes of land-related politics in localities and regions organized around both the customary and statist land regimes. Such dynamics are at work across wide arrays of rural settings that differ along dimensions that have been of interest to political scientists, including level of economic

⁸⁸ As Pelissier (2006) writes, even city dwellers have incentives to maintain ties to rural family and village in order to preserve their land rights and, thus, maintain access to this asset and hedge against risk. Posner (2005, 86) extends this argument to electoral behavior.

development (extent of commercialization of agriculture), ethnic makeup, inherited legal tradition and colonial institutional heritage, and national regime type. This opens the analytic possibilities pursued in this study. The aim is to produce a better understanding, not only of land-related conflict but also of the institutional arrangements that define its structure, political character, and implications for national political trajectories.

Catherine Boone, *Property and Political Order*, CUP, forthcoming 2013
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PART FOUR

ELECTORAL POLITICS AND LAND-RELATED CONFLICT IN AFRICA

Alternatively, a rival with the support of the landless may replace the existing rulers and redistribute land in such a way as to give land to the landless... (North 1981: 116).

At the heart of the conflict was the question of land.
(Mamdani 2001: 252).

Debates and conflicts over land rights have played a powerful role in some of the continent's most closely studied experiments with political liberalization -- including those in Kenya in the 1990s, Côte d'Ivoire since the mid-1990s, the Democratic Republic of the Congo, Zimbabwe, and Rwanda (1990-1994). In Kenya in 1992 and 1997, the incumbent regime of Daniel arap Moi stoked land tensions in the Rift Valley to consolidate its electoral constituencies, disorganize the opposition, and help strengthen the ruling party's hold on power. In Côte d'Ivoire since the mid-1990s, national-level politicians have catered to southwesterners' land grievances against immigrant farmers in order to mobilize the electoral support of "true Ivoirians" in this region. In Zaire, Mobutu's National Conference in 1991 opened the door for politicians in Eastern provinces to mobilize electoral constituencies around promises of land restitution. In Zimbabwe from the mid-1990s on, Mugabe played the land issue to the hilt to bolster his nationalist and populist credentials, cement his hold on an electoral base, and destroy the opposition. In Rwanda, too, an on-going history of the use of state power to impose, allocate, and reallocate land rights

shaped patterns of political mobilization in the period of multiparty politics from 1990 through April 1994.

In these situations, land tensions and land questions helped fuel multiparty dynamics by mobilizing voters in national-level electoral contests. Land issues defined or deepened lines of partisan affiliation at the local level, providing national-level politicians with highly salient issues that they could exploit for electoral advantage, and helping kindle election-related strife. Voters in some significant constituencies were told -- or believed -- that the security of their access to land would be affected by the outcome of a national-level (or, in the case of Eastern DRC, a regional-level) contest for state power. In all these cases, there were close connections between land-related conflict, on the one hand, and competition for national-level elected office, on the other. If we follow Kenneth Roberts terminology in calling an issue "politicized" when it becomes an axis of electoral competition, then this phenomenon is "politicized land conflict."¹ Under what conditions does this happen?

I. Multipartism under Statist Land Tenure Regimes

Our answer is that the character of the land tenure regime is a key explanatory variable. Under statist land tenure regimes, the possibility of partisan alternation raises the specter of a *redistribution* of land rights. Where settler populations are directly beholden to central authorities for their land rights, they are highly mobilizable by incumbents who have the power to enforce and renew their land tenure. For the same reason, settlers' land rights are vulnerable to power shifts (political dislocation) at the top of the state apparatus, including shifts that may result from electoral turn-over. Meanwhile, if rulers have extinguished or disregarded ancestral land rights of an autochthonous (indigenous, firstcomer) community in order to implant the settler population, then rulers are likely to have created at least a latent constituency with land-rights grievances that

¹ Roberts, *Changing Course: Party Systems* (CUP, forthcoming, ms. p. 29). Mozaffar et al. (2003:383) use the term "particization."

they pin on the central state. Aggrieved constituencies' demands for restitution may be championed by political entrepreneurs who promise to redress the historical land grievances by overturning the work of the *ancien régime*. Settlers' land access rights may turn out to be no more secure than the government that provided the land access in the first place.

The *redistributive implications of elections* under statist land tenure regimes explain these upsurges of land-related conflict at election time. The move to multipartism encourages and allows those who have been on the losing end of the land competition, whose political options have been hitherto constrained to exit and loyalty, to opt for *voice*. Those who have benefitted from the patronage of incumbents have heightened incentives to support them -- the incumbents are likely to be their protectors. The LTR thus defines *micro-level expectations* about the possible consequences of regime turnover. These expectations are a key link between structure as defined by the LTR, and the agency of land claimants. On both the sides of a land conflict that pits settlers against indigenes, political liberalization gives political entrepreneurs incentives to provide the leadership and organizational resources that will mobilize constituencies for electoral battle.

Will political entrepreneurs seek to take advantage of the opportunity to mobilize voters with land grievances and politically contingent land rights? Politicians' move from opportunity to action depends on demographic and electoral-system variables that we do not explore systematically here. One variable is the numerical significance of the voter population that can be mobilized around the land issue. Another is electoral rules that may determine a given population's electoral significance, at both the constituency and the national level.² A particular

² If we had the data to run a regression analysis to test the argument that "under multiparty competition, high in-migration under a statist LTR increases the likelihood of politicized land-related conflict," we would have to specify a few more parameters to get a good test. We would have to code for the presence or absence of political entrepreneurs to foment and organize collective action in the form of land-related conflict, and for that, the salience of the constituency in a national electoral outcome is likely to matter. The argument here points to social-structural and institutional parameters that *create conditions* for politicized (election time) land conflict, and shows that they are salient across an array of cases. Considering counterfactual hypotheses that

constituency's symbolic value may also matter. In the 31 October 2010 first-round presidential election in Côte d'Ivoire, for example, militants of the ruling FPI wanted to guarantee that President Laurent Gbagbo would win "100 percent of the vote in his home area."³

Multipartism raises the value of rural voices to politicians who have heightened incentives to mobilize active support. As Scott Matter (2010) notes in a study of land politics in Narok District, Kenya, the politics that ensue are a coproduction of those who need land access and those with the power to grant it. The dynamics observed in these cases show that democracy's Third Wave in the 1990s not only rendered authoritarian regimes insecure, as Snyder (2000) and others have argued, but also upset the property allocations that these regimes had authored and enforced. Where authority-based systems of resource allocation are pervasive in national economies, regime change can ignite redistributive conflict that reaches deep into society.

Table 9.1 depicts the partisan alignments over land issues that emerged in the cases considered below. *Incumbents defended the status quo* land allocations when they themselves were the authors of that distribution of rights and when they were challenged by opposition parties demanding land-rights redistribution (restitution, actually). The alignment emerged under the Habyarimana regime in Rwanda in 1991-94, and the Mobutu regime in eastern DRC in 1990-94,

are framed by the theory enhances confidence in the argument.

³ Interviews in Abidjan, 20 October 2010.

Table 9.1. Land Conflict in the Electoral Arena: Partisan Line-Up on Land Issues

	Where?	When?	Defending land rights granted by the central state	Champion of "customary"/ historical rights (restitution)	Scale of violence
Rwanda	national; Eastern prefectures	1991-4	<u>Incumbents</u> defend status quo. MRND Hard-liners defend gains of "Hutu Revolution"	<u>Opposition</u> . RPF; opposition parties supporting the Arusha Process become associated w/ RPF cause ("coalition objective") (Reyntjens 1994:206).	800,000 killed 2 m. DP
Kenya	Rift Valley Province	1992-8	<u>Opposition</u> defends status quo inherited from Kenyatta regime.	<u>Incumbents</u> (Moi/KANU).	1,500 killed 500,000 DP
Kenya		2002+	<u>Incumbent</u>	<u>Opposition</u> (Ruto-wing of the Orange Movement)	
Zimbabwe	commercial farming areas	2000-	<u>Opposition</u> defends status quo inherited from Rhodesian government.	<u>Incumbent</u> . Mugabe nationalist appeals target estate-owners	most expropriated
Demo. Rep. Congo (ex-Zaire)	N. Kivu province	1990-1993	<u>Ancien regime</u> established status quo (colonial regime, Mobutu regime).	<u>New players</u> autochthonous politicians (Hunde/Nyanga)	
Côte d'Ivoire	SW region	1990-2000	<u>Incumbents</u> invested in status quo established by Houphouet regime.	<u>Opposition</u> . Gbagbo, FPI	200,000 DP
Côte d'Ivoire	national	2000+	<u>Opposition</u>	<u>Incumbent</u>	

and the PDCI regime in Côte d'Ivoire (until 1998). *Incumbents renounced the land allocations of the ancien regime*, facing off against opposition parties that defended (or did not renounce) the earlier land allocations, in Kenya under Moi and in Zimbabwe under Mugabe.

II. Rival Arguments and Counterfactual Scenarios

Cases developed in earlier chapters are counterfactuals that help support the argument here, which is that under multipartism, land conflicts that are structured by the statist land tenure regimes are likely (i.e., more likely than land conflicts generated under the neocustomary regimes) to find expression in the arena of multiparty politics. Cases considered in chapters 4 through 8 combine with the material presented in chapters 9 and 10 to provide leverage on three rival explanations of land-related election conflict and election-time violence: (a) that land scarcity itself causes violent land conflict; (b) that the ethnic heterogeneity of electoral constituencies is a predictor of the emergence of election-time land conflict; (c) that this kind of politicized land conflict reflects the weakness of the central state. The larger pool of cases also

provides evidence about the effects of multiparty politics on local jurisdictions under *non-statist* land tenure regimes.

Land Scarcity and Land-Related Violence

Does rising pressure on the land explain the election-time land conflict that developed in the 1990s in these five cases? In chapter 8, we argued that scarcity does not explain the scale or scope of conflict in the case of Rwanda. This reasoning extends to the other cases presented here. *Perceived land scarcity is present in all the cases we have considered so far.* Scarcity per se tells us little about how the resulting social tensions will find political expression. Parts Two and Three of this book presented cases in which tensions over rising population pressure, shrinking landholding size, and the closing of the land frontier do not become an animating force in electoral politics or fuel election-time violence. The earlier cases help drive home the point that tensions arising from demographic stress are not necessarily stoked or harnessed by politicians for electoral advantage. In fact, in sub-Saharan Africa, they rarely are.

Ethnic Heterogeneity and Land Conflict

An even more pervasive line of argument attributes election-time land conflict to ethnic heterogeneity. Does the existence of ethnic heterogeneity in rural localities mean that land tensions, if they exist, are likely to find expression as ethnic conflict in the electoral arena? Each of the study zones examined in chapter 9 is indeed ethnically heterogeneous. In each sub-national jurisdictions of interest in Kenya, Côte d'Ivoire, and DRC, from 20 to 60 percent of the population is composed of in-migrants. In Rwanda, there is no in-migration, but there is ethnic heterogeneity: about 20 percent of the national population was classified as non-Hutu in the 1980s. In Zimbabwe, politicized land conflict targeted the white minority. Land scarcity and ethnic heterogeneity are simultaneously present in each of the cases examined in chapter 9. Yet when we seek to explain why politicized land conflict developed in *these* cases but not in *all*

cases considered in this book, we see that ethnic heterogeneity, alone or in combination with scarcity and land hunger, is underdetermining. The co-presence of these two factors does not produce politicized land conflict as we have defined it here in the cases of western Ghana and western Burkina Faso. Fearon and Laitin (1996) suggested that violent conflict is a *rare* feature of life in ethnically heterogeneous localities, and our cases suggest that this is true in ethnically mixed, land-scarce districts of rural Africa.⁴ Where land-related conflicts over resource use *do* divide communities along ethnic lines, as in western Ghana, western Burkina Faso, and northern Cameroon, these generally play out as highly localized affairs. They do not fuel the flames of partisan conflict in national-level electoral competition.

State Weakness and Politicized Land Conflict

A "state weakness" hypothesis holds that in Africa, national government barely penetrates the countryside, and land tenure relations lie beyond the reach of the state. This argument is made by Herbst in *States and Power in Africa* (2000), for example. By this logic, multiparty competition would result in land-related conflict where political liberalization "takes the lid off" long-simmering intercommunal squabbles that were repressed by the authoritarian state.

The land-tenure facts of the cases considered in this chapter directly contradict the central tenet of the weak-state hypothesis. In each case, the land rights that were called into question were modern artifacts, created through a recent history of deep state involvement in land tenure and land allocation. In each country, violence occurred precisely in the sub-regions where land tenure relations had been the most intensively governed and structured by the modern state. All the conflict-affected areas were zones of extensive commercialization of agriculture, marked by deep state involvement in structuring factor allocation, including land allocation, and the commercialization of agricultural output. The statist land tenure regime prevailing in these

⁴ On ethnic nationalism, see also Snyder's *Voting to Violence* (Norton 2000).

jurisdictions is itself a prime indicator of high state penetration of the rural areas in these sub-national jurisdictions.

The "ethnic heterogeneity" in the case studies that we examine in chapter 9, as well as the racial heterogeneity of Zimbabwean society (chapter 10), is largely traceable to *state-sponsored movements* of agrarian settlement/colonization. As analysts of central Africa have argued, the forcible and coercive "transplantation" of populations creates a new *gestion d'espace* [We need this in English.] in which the modern state is the central and sometimes hegemonic arbiter. What Mathieu, Laurent, Mafikiri Tsongo, and Mugangu (1999, 19) have called "*cohabitations imposées*" in Eastern Zaire/DRC structured land tenure relations in ways that are largely isomorphic to the patterns we observe in south-central and southwestern Côte d'Ivoire, and in the farming districts of Kenya's Rift Valley Province. In Rwanda, the postcolonial state redefined land rights and settlement patterns throughout much of the national territory, creating patterns of land clientelism and exclusion that fueled deadly struggles over state power, manifest both in the 1991 RPF invasion and in election violence. In Zimbabwe, the Mugabe regime presented itself as reversing land expropriations and a *cohabitation imposée* engineered by the colonial state. Mugabe positioned himself in 2000 as a revolutionary and a restorer of native land rights, producing forms of land-related conflict in Zimbabwe that resemble the politicized land conflicts that exploded in the other four cases.

Multiparty Competition under the Neocustomary Land Regimes

In most rural jurisdictions, the return to multipartism at the national level has not resulted in much electoral competition at the local level. And in the vast majority of these, the land tenure regime is organized largely around neocustomary relations. These more ordinary or typical cases help support, by way of counterfactual, the argument advanced in Part Four, which is that politicized land-related conflict is more likely to emerge under the statist LTRs.

Material presented in earlier chapters permits a close look at these contrast cases, where the statist LTRs are absent. Land conflict did not become an axis of electoral competition in Kisii, Kenya, providing us with an in-country contrast to the Rift Valley Province case study, considered below. And the cases of Western Region Ghana, Ashanti Region's "expulsion of the aliens" in 1966, western Burkina Faso, and northern Cameroon suggest that *even under multipartism*, the neocustomary regimes repress land-related conflict at the local level.

By the logic advanced here, if land-related conflict did emerge as an axis of electoral competition in a jurisdiction with a neocustomary land tenure regime, then that would be an indicator of *the weakness or weakening of neocustomary authority* over land.⁵

⁵ A subtler version of our argument holds that the effect is proportional to the directness of the state's intervention in land issues in a region. A gray zone, or intermediate case, is the case of Western Ghana, where a chieftaincy-centered land regime prevails. As argued in chapter 4, in short periods in the early 1960s and mid-1980s, the governments of Nkrumah and Rawlings aligned with the in-migrants, producing land-related conflict that was politicized in some of the ways we describe here. This is an anomaly for our theory, since the theory predicts that under a neocustomary (chieftaincy-centered) LTR, land-related conflict will be "bottled up" at the level of the chiefly jurisdiction. In the Western Region case study presented in chapter 4, I argued that a resolution of this anomaly can be found within the theory itself: in Western Region, the central authorities' hand in making a neocustomary LTR was explicit; the central state was more obviously implicated in shoring up chiefs' power here than in, say, Ashanti Region. The "statist" cast (?) of the customary regime in Sefwi Wiawso and Wassa Amenfi in Western Region created institutional and political conditions for bringing land-related politics into the national arena. Nkrumah's immediate successors and the Rawlings regime eventually bolstered chieftaincy decisively, resulting in institutional arrangements that worked to push the natives-versus-settlers land conflict out of the national political arena—an outcome that conforms to our theoretical expectations.