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A Debate on Property and Land Rights

Editors' Note: In issue 2/2011, we published an article by Saafo Roba Boye and Randi Kaarhus entitled "Competing Claims and Contested Boundaries: Legitimizing Land Rights in Isiolo District, Northern Kenya". We subsequently invited contributions for a debate on property and land rights. In issue 3/2011, we published contributions by Christian Lund and by Clemens Greiner et al., along with a review article by Roger Southall (see <www.africa-spectrum.org>). We welcome further contributions on this subject for our forthcoming issues.

Three Views of a Secret: Land Rights and the Constitution of Local Citizenship in West Africa

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Keywords: West Africa, land tenure, land law, nationality/citizenship, social integration

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In West African contexts, land rights are used to prescribe the ways in which a society relates to nature, temporality and otherness. These different ways of relating are designed by a set of procedures, negotiations and actions which involve the members of the group and help to create, delimit, transform and perpetuate it. In this contribution we will explore how these processes are conceptualized within a society that is conceived of as a sort of macro-actor network encompassing humans and non-humans (land, gods, spirits, animals, etc.), the extent and internal organization of which (with its hierarchies and cleavages: autochthon/immigrant, elder/junior) are at stake.¹ Specifying these points of view will allow us to supplement the propositions of Christian Lund (2011), who speaks of land rights property and citizenship in terms of “having” and “being”, respectively, as key and intertwined issues for the constitution of society.

The extent and limits of land rights are consequences of historical choices determined very early in the settlement process. These choices consisted of: land use versus resource conservation, accommodating immigrants versus preserving indigenous land rights, and encouraging individual profit versus collective interests (from a synchronic, but also diachronic – trans-generational – perspective). It is necessary to conciliate the terms of all of these alternatives because each term carries a partial promise of both social accomplishment and anomie if it is not somehow balanced with the consideration of the other term. For example, any social and political constructions have to acknowledge private rights and interests (because there is no other way to obtain personal investments that are profitable – and without added value nothing can be redistributed), but sometimes they have to be subordinated to greater, collective objectives related to the worth and wealth of the society as a whole. In the initial stages of a settlement, demography is very important, hence the collective propensity, relayed by customary authorities, to attract and welcome immigrants. Since all the available land has already been appropriated by autochthonous lineages (usually within a few years), the autochthonous have a duty to accommodate these immigrants on their own landholdings.

Placing limits upon the acquisition of private land rights – notably by prohibiting “alienating” the land (that is, ceding the whole bundle of rights attached to a piece of land) – was quite common in pre- and non-capitalist traditions and is a sign that an arbitration process between private and collective interests has taken place. Typically, landholding groups (as production units) have rights, but they are not entitled to determine the fate of the

1 See Latour–Strathern debate about network extension (Strathern 1996, 1999; Latour 2006).

land that they cultivate for future generations. Land may also be marked by prohibitions against planting trees in the bush. These prohibitions were quite common at the beginning of a settlement for both autochthons and immigrants and aimed to avoid any sign of lasting individual investment in a space in order to preserve fluid access to that space. As Perry and Bloch have noted,

Since the trees outlast the individual who planted them, they represent a kind of illicit immortalization of the type of wealth that should be dispersed before death (1989: 27).

In the academic literature, this use of land within the process of political construction has been described in three ways:

1. by insisting on the social embeddedness of the rights of land access;
2. by underlining the limited exchange value of the resource itself; and
3. by emphasizing the fact that useful land, meaning “bearing fruit and relations” (Strathern, 2009), is an invention of a given group (the autochthons) to whom dependent groups remain constantly indebted.

The first perspective, inspired by Karl Polanyi (see Chauveau and Colin 2010), stresses the fact that land use implies obligations of a social and political nature, as well as a respect for rules and prohibitions which, when followed, make the rights conceded effective. Land tenure rights and obligations are large-scale integrative grammars – that is to say, sets of rules in which respect is necessary in order for one “to be recognized within a community, as one knowing how to react and judge correctly” (Lemieux 2009: 21). In this analysis, the accent is placed upon the fact that belonging to a community is a pre-condition – a good that will provide access to other goods (land rights), the true subject of interest to the local actors.

The second perspective, inspired by Mary Douglas (1967, see also Appadurai 1986), analyses the resource as an object with a voluntarily restrained circulation. This “rationing” allows indigenous authorities to create a socially generated and controlled land economy which they can manipulate to build the society that they want: a densely populated human settlement, organized around various hierarchies and statuses, that is able to resolve the question of its long-term reproduction. This model allows us to clearly see how a city (*civitas*) can be built upon the basis of a land distribution system controlled by the first-comers. Dependent on a system of land access that is based upon the condition of adopting a certain type of socialization, immigrants and natives are both included in a project that aims to define local citizenship based on a resource whose scarcity has been socially produced. The

management of this scarcity is at the origin of internal hierarchies that may be expressed in the form of functional positions within the group.

In the third perspective, inspired by Marilyn Strathern (2009), the accent is less on the land itself and more on what it is capable of producing (animals, crops, children, extractable ore, people and the peaceful social relationships they are able to entertain). These products are considered to be the tangible expressions of an intangible quality (the “fertility” of the land) which was set in motion by the founders and has been kept up subsequently by their heirs. The work of the current producers (be they local or outsiders) does not produce fertility, it only reveals what is already there. In other words, the creative power of land can be analysed in terms of intellectual property rights. Through its intangible nature, unveiled in the past thanks to the secret know-how of the ancestors, this fertility is the true indigenous contribution to the productive potential of the land. Fertility needs to be maintained, through the gifts and compensations offered by the individuals living off the richness of the soil, whether the individual be a native, an immigrant, a mining company or an agro-businessman. As Tim Ingold puts it,

It is essential to look after the land, to maintain in good order the relationships it embodies; only then can the land, reciprocally, continue to grow and nurture those who dwell therein (2000: 149).

The first perspective assumes a pre-existing society and proceeds in an analytical manner, examining the procedures that regulate the entry of outside elements into the group and the sets of factors defining the rights and obligations which arise from this entry. This viewpoint opens up a larger space for expression for immigrants, who can take advantage of their investments (in land, in the community) to consolidate their positions. In less stable contexts – for example, in phases of uncertainty and competition between indigenous earth chiefdoms – the procedures that regulate the relationships with immigrants can also serve to reshape neighbouring societies by delimiting a distinct space of action and recognition for the group vis-à-vis other autochthonous groups (see Arnaldi di Balme 2010). This is also what occurs, on a larger scale, within a context of regional interethnic violence, as described by Greiner et al. (2011) in northeastern Kenya.

The second and third perspectives share the same genetic principle, both emphasizing the point of view of indigenous authorities who were in the original situation of creating a settlement. The accent here is placed on the immaterial qualities of the land. According to both Mary Douglas and Marilyn Strathern, land rights can be compared to licenses or vouchers. They allow the institutions issuing these licenses to maintain control over the manner in which rights are accessed and used and thus contribute to the

forging of a differentiated local citizenship (especially in the case of Douglas; for elaborations on this theme, see Jacob and Le Meur 2010; Jacob 2011). The third perspective emphasizes the act of original value creation carried out by the ancestors of the clan who, thanks to a combination of ideas, knowledge and specific know-how (most notably rituals), managed to awaken land fertility – namely, its capacity to “bear fruit and relations”. Faced with this original act, whose benefits are still being enjoyed today, no later act of value-adding (investments, work done by later generations or by immigrants welcomed within the group) can really count, as nothing can ever equal or compensate for the original act.

It is impossible to present here all of the factors of change that could rupture the links between land rights and the constitution of society. Nevertheless, this threefold perspective on the relationship between land rights distribution and citizenship, which offers interpretations that can be complementary and can reflect different points of view (etic or emic), is useful to remember for three reasons: First, local actors can continue to refer to the norms derived from the land rights–citizenship nexus in their everyday behaviour, while at the same time the objective conditions of the application of these norms may have changed. One can assume that there is always a gap between social or natural facts and their integration within representations. Second, new sectors can broaden the spread of values and practices linked to local citizenship (the political institutionalization of belonging to a group or society), notably within the framework of participative projects for the management of renewable resources² or according to specific political circumstances.³ In other situations – for example, under the currently increasing, constraining pressure from conservationist policies – the very idea of local citizenship can be denied by these policies.⁴ Third, this threefold perspective can be extremely useful in conducting in-depth analyses of programmes whose goal is to formally register traditional property rights (Colin et al. 2009). Combining these three viewpoints can make up a key element in the decoding of the specific technologies mobilized in the registering (the wording of laws and decrees, the printed forms, agreements, taxes, etc.), as seen in the Kenyan example recently discussed in a previous issue of *Africa Spectrum* (Boye and Kaarhus 2011; Greiner et al. 2011).

Viewing land as intellectual property provides the most satisfactory model of interpretation for the indigenous position in a globalized, non-

2 See for example the Malian rural wood markets analysed by Gautier et al. (2011).

3 Côte d'Ivoire under Gbagbo for instance. See the pacts signed during this period between autochthons and allochthons (Néné Bi 2009).

4 Space becomes at the same time mankind property and world heritage, and a base for the renewal of primitive accumulation (Kelly 2011).

agrarian context – for example, in a situation where a multinational excavates land to extract ore. For the “natives”, it is not the loss of land rights that should be compensated⁵ but the loss of the endless incoming flow of wealth brought forth by any kind of extractive action. This wealth is viewed as invaluable, a perspective that renders vain any “economic” measures of differential rent or natural capital that might be used as a basis for determining a reasonable amount of compensation. As Strathern puts it,

If fertility is a hidden quality until it is revealed, it follows that anything that the land yields can be taken as evidence of inner resources. No wonder the landowners do not pitch their price according to some pre-conceived value of the land but measure their demands against the developers’ revenues (2009: 35-36).

The rent is thus absolute, strictly speaking, and it is this characteristic that opens the door to broad negotiations about the way in which the external operator will be able to “repay” the population, “compensate” for damages inflicted, and even financially contribute to “sustainable development”.

According to the well-known (in West Africa and beyond) antimetabole “One belongs to a group, one belongs to the land, the land belongs to us” (Le Meur 2010: 92), you must belong to the land if you want the land to become a little bit yours. Hence the question asked of any type of land user when it comes to judging his social and productive behaviour: “To which world – to which land – do you belong?” (see Jacob and Le Meur 2010). It is within and through this confrontation between actors, points of view, and legitimating repertoires that forms of citizenship are determined, as well as their degree of “localization”, ranging from local or parochial to world or mankind citizenship.

Bibliography

- Appadurai, Arjun (1986), Introduction: Commodities and the Politics of Value, in: Arjun Appadurai (ed.), *The Social Life of Things: Commodities in Cultural Perspective*, Cambridge: Cambridge University Press, 3-63.
- Arnaldi di Balme, Luigi (2010), Migrations internes et construction d’un espace politique local, in: Jean-Pierre Jacob and Pierre-Yves Le Meur (eds.), *Politique de la terre et de l’appartenance. Droits fonciers et citoyenneté locale dans les sociétés du Sud*, Paris: Karthala, 177-198.

5 There may be no recognized land rights, especially in West Africa, which does not imply as Luning seems to think (2008), that natives are left without argument, if one considers land in terms of intellectual property rights.

- Boye, Saafo Roba, and Randi Kaarhus (2011), Competing Claims and Contested Boundaries: Legitimizing Land Rights in Isiolo District, Northern Kenya, in: *Africa Spectrum*, 46, 2, 99-124.
- Chauveau, Jean-Pierre, and Jean-Philippe Colin (2010), Customary Transfers and Land Sales in Côte d'Ivoire: Revisiting the Embeddedness Issue, in: *Africa*, 80, 1, 81-103.
- Colin, Jean-Philippe, Pierre-Yves Le Meur and Eric Léonard (eds.) (2009), *Les politiques d'enregistrement des droits fonciers: du cadre légal aux pratiques locales*, Paris: Karthala.
- Douglas, Mary (1967), Primitive Rationing: A Study in Controlled Exchange, in: Raymond Firth (ed.), *Themes in Economic Anthropology*, London: Tavistock Publications, 119-147.
- Gautier, Denis, Baptiste Hautdidier and Laurent Gazull (2011), Woodcutting and Territorial Claims in Mali, in: *Geoforum*, 42, 28-39.
- Greiner, Clemens, Michael Bollig and J. Terrence McCabe (2011), Notes on Land-based Conflicts in Kenya's Arid Areas, in: *Africa Spectrum*, 46, 3, 77-81.
- Ingold, Tim (2000), *The Perception of the Environment: Essays in Livelihood, Dwelling and Skill*, London: Routledge.
- Jacob, Jean-Pierre (2011), La terre comme droit de propriété intellectuelle et le travail comme grammaire commune dans les sociétés du Sud, in: Eyolf Jul-Larsen, Pierre-Joseph Laurent, Pierre-Yves Le Meur and Eric Léonard (eds.), *Une anthropologie entre pouvoirs et histoire: conversations autour de l'œuvre de Jean-Pierre Chauveau*, Paris: APAD-IRD-Karthala, 581-599.
- Jacob, Jean-Pierre, and Pierre-Yves Le Meur (2010), Citoyenneté locale, foncier, appartenance et reconnaissance dans les sociétés du Sud, in: Jacob, Jean-Pierre, and Pierre-Yves Le Meur (eds.), *Politique de la terre et de l'appartenance: droits fonciers et citoyenneté locale dans les sociétés du Sud*, Paris: Karthala, 5-57.
- Kelly, Alice (2011), Conservation Practice as Primitive Accumulation, in: *Journal of Peasant Studies*, 38, 4, 683-701.
- Latour, Bruno (2006), *Changer la société – Refaire de la sociologie*, Paris: La Découverte.
- Le Meur, Pierre-Yves (2010), La terre en Nouvelle-Calédonie: pollution, appartenance et propriété intellectuelle, in: *Multitudes*, 41, 91-98.
- Lemieux, Cyril (2009), *Le devoir et la grâce*, Paris: Economica.
- Lund, Christian (2011), Property and Citizenship: Conceptually Connecting Land Rights and Belonging in Africa, in: *Africa Spectrum*, 46, 3, 71-75.
- Luning, Sabine (2008), Gold Mining in Sanmatenga, Burkina Faso: Governing Sites, Appropriating Wealth, in: Jon Abbink and André van

- Dokkum (eds.), *Dilemmas of Development: Conflicts of Interest and Their Resolution in Modernizing Africa*, Leiden: African Studies Centre, 189-205.
- Néné Bi, Séraphin (2009), La formation d'un droit foncier négocié dans le Sud forestier ivoirien, in: Olivier Barrière and Alain Rochegude (eds.), *Foncier et environnement en Afrique: des acteurs au(x) droit(s)*, Cahiers d'anthropologie du droit, 2007-2008, Paris: Karthala, 347-374.
- Parry, Jonathan, and Maurice Bloch (1989), Introduction: Money and the Morality of Exchange, in: Jonathan Parry and Maurice Bloch (eds.), *Money and the Morality of Exchange*, Cambridge: Cambridge University Press: 1-32.
- Strathern, Marilyn (1996), Cutting the Network, in: *Journal of the Royal Anthropological Institute*, 2, 3, 517-535.
- Strathern, Marilyn (1999), *Property, Substance & Effect: Anthropological Essays on Persons and Things*, London: The Athlone Press.
- Strathern, Marilyn (2009), Land: Intangible or Tangible Property?, in: Timothy Chesters (ed.), *Land Rights*, Oxford: Oxford University Press, 13-38.