The Land Question and Legal Pluralism in Africa: Recent Contributions and Future Work

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The issue of land in Africa has been the focus of scholarly and policy discussions for many decades, with more attention being drawn to the topic following the 2007/2008 triple crisis which contributed to the corporate acquisition of vast tracts of land across the continent. Some examples of these discussions can be found in *Africa's Land Rush: Rural Livelihoods and Agrarian Change* (edited by Ruth Hall and colleague), Lands Grabbing in Africa: The Race for Africa;s Rich Farmland (edited by Fassil Demissie), *Land Grabbing: Journey in the New Colonialism* (by Stefano Liberti) and an edited book by Logan and I, titled; *The Transnational Land Rush in Africa: A Decade after the Spike* (forthcoming in Palgrave IPE series), among a plethora of journal articles and policy briefs.

This recent volume under focus in this symposium, *Rethinking Land Reform in Africa: New Ideas, Opportunities and Challenges*, is among the voluminous academic and practice-oriented contributions that have attempted to examine the land question. Land remains central to the fibre of the African society and as Matthew Mitchell shows in Chapter 12, it underpins "unresolved debate concerning who is indigenous in Africa" (p. 169) or in other words, who qualifies to identify as a 'son/daughter of the soil'. In essence, years of disputes over tenure, ownership and policy reform (as well as the indigeneity question) have made it a continuous, often conflict-ridden issue that defies easy prognosis. As this collection also demonstrates, any discussion is complicated by history, ideology, politics, demographics, economics, and socio-cultural relations.

It is noted right at the outset of the volume that, given the social, economic, political and even ecological challenges in many parts of Africa, it is curious that a number of fundamental questions that have dominated land reform since the dawn of human civilization (e.g. progressive land taxation, land expropriation with or without compensation) tend to be relatively scarce in reform proposals in Africa or are often casually dismissed as 'non-viable', 'political' or 'ideological'" (p.16). Considering the significant development opportunities and challenges of the continent over the next two to three decades, the volume's central objective is to demystify land reform, clarify existing biases and assumptions while inspiring "fresh and critical reflection, inquiry and evidence informed policy debate and dialogue" (p.17). The various chapters are nicely carved around this overarching objective.

In all, the volume's contribution do well in facilitating the reader's understanding of the broad range of legal and practical intricacies of land reform and land rights, including chapters that examine commercial incentives for land vis-a-vis the security of rural land rights (Chapter 4 by Lorenzo Cotula), shifting policy paradigm (Chapter 7 by Howard Stein) property transfer taxes (Chapter 8 by Riel Franzsen), and the role of women in land reform (Chapter 11 by Eugene Chigbu) among other topics. In some instances, however, we wonder if the focus on external actors (e.g. 'the donors') negates the agency of people and their government. Some external actors have played critical roles in changing land and investment laws, including the World Bank, to enable large-scale land investments. Yet, it was also governments, such as those of Gabon and Ethiopia, who have funded campaigns to attract investors from India. On

another level, aspects of the volume present people as subject to or at least passive victims of dispossession, expropriation, and exclusion. While this is true in some instances, it was the people and popular movements in places such as Senegal and Madagascar (amongst many others) that have exerted their power to stifle such large-scale land deals. Without over-emphasizing national governments and without romanticizing the 'people', we wonder if questions of agency and power could re-center reform.

After years of being subjected to a neoliberal framing of land reform, which privileges statutory land rights over customary ones, Sara Berry (Chapter 3) poses the critical question of "on whose authority?" Out of all the questions posed by the various contributions, this one underscores the perennial challenge in identifying which sphere of authority determines the distribution and management of land. It is obviously an important question given the historical contestations over land by diverse groups of stakeholders that function in both traditional (customary) and civic (Statutory) settings. Contributions elsewhere have shown that legal pluralism or governance ambiguity plays a primary role in the mysteries that surround land reform and, in fact, the management of other natural resources (see also Chapter 9 by Robert Home). This underscores the utility of Horman Chintoge's (Chapter 14) suggestion for participatory land governance practices "which recognise customary tenure as a valid form of landholding" (p.209). This could resolve an age-old policy ambiguity and facilitate governance and management systems that are oriented around people's rights and their livelihoods.

Despite what we believe constitutes an excellent addition to ongoing scholarship and policy dialogues, there are a few topics that we hope could be further investigated in future research on the land question. One of them is the issue of how land reform intersects with climate change. To be sure, there are some mentions of climate change throughout the book, including how "the Intergovernmental Panel on Climate Change research on climate and land in August 2019 advocates secure community landholding to help mitigate climate change (p.62) and how "the pressure on land has been accentuated by the effects of climate change which is reducing the amount of land available for agriculture" (p. 207). However, a chapter dedicated to this specific topic could have provided more grounded insights, To further reiterate the point, climate change is expected to have negative ramifications for food security and

scholars have found that 16 million people in Africa will be at risk of hunger by 2030 when compared to a scenario without the impacts of climate change. Continuing in the environmental realm, issues intimately connected to land, such as water and biodiversity, are often relegated to other sectoral studies. Yet, the loss of biodiversity such as forests, transformed into plantations is directly a product of land laws (as noted in chapter 6 by Pauline E. Peters). The question of reform is also a question of what future horizons we wish to walk toward.

As we look forward, researchers have estimated that the global pandemic of COVID-19 as well as the drastic responses taken to contain it could push 71-100 million people into extreme poverty, 32-42 million of whom are expected to be people living in Sub-Saharan Africa. Another recent report has also confirmed the devastating impact of the pandemic on food security and nutrition, including the potential of meeting SDG targets which are connected to land access and tenure. In Eastern Africa, the pandemic is compounded by the spread of locust - devastating farmers and food systems. The volume was concluded before the onset of the pandemic but it has no doubt raised a number of critical questions. As a rare and unpredictable event (as per Nassim Taleb), the pandemic may have consequences we cannot yet see. This returns us to questions of subjecting land (and all affected by it) to external pressures and capital. As one Indian investor explained in a promotional video on investment in Gabon, investors move 'backward' and unto the next 'backward country' to extract the highest amount of profit with the least amount of regulation.

Without transforming the vision of that future horizon, reform may enable elites to further clamber over one another to scrape out the last franc. Reformist approaches (see Chapter 5 by Liz Alden Wily) adjust within paradigms; the rules of the game change when we shift tables but if we have not left the casino of capitalism (as per Strange and Mbembe), the house will continue to win.

In sum, this volume is a very interesting collection that covers significant ground in terms of scope and nature of work that has been done on the land question and its legal dichotomies in Africa. The authoritative list of contributors and the rigor of the analysis undertaken in various chapters make the book all the more compelling. While published by the African Development Bank, it is bound to have wide readership beyond the policy community. In fact,

the volume stands out as an interesting resource for scholars, practitioners, instructors and students interested in the management and governance of land and other natural resources in Africa.

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