

# Foreword

Sara Berry

For much of the twentieth century, both scholars and practitioners viewed Africa as a region endowed with abundant supplies of land. Unlike densely populated areas in Asia or areas of Latin America where a few people controlled large amounts of land, in Africa land was neither a constraint on economic growth or a major source of conflict, and hence of little concern to politicians, policymakers or students of development. Beginning in the 1980s, these assumptions came increasingly into question. As competition over land increased, land transactions became increasingly commercialized, land prices rose and conflicts multiplied. Rival claimants turned to government officials, adjudicators, NGOs, relatives and neighbours to mediate disputes or testify on their behalf. In the process, struggles over land restructured relations of kinship and authority as well as patterns of market exchange and the distribution of wealth – reinforcing or destabilizing established hierarchies and networks and sparking intense debates over value, entitlement and belonging.

Struggles over land took distinctive forms in northern Uganda, where decades of violent conflict gave way to relative security by 2010. In the Karamoja sub-region, disarmament and the decline of raiding opened possibilities of development, particularly projects by outside investors. The claims they asserted were very different from the claims and uses with which local people were familiar. In the Acholi sub-region, conflicts over land were delayed during the long insurgency of the Lord's Resistance Army, when the government forced much of the rural population into Internally Displaced Persons camps. Competition

over access to and control of land re-emerged after 2006, when the camps were disbanded and people began to return to their former homes. While some chose to remain in the small urban centres that had hosted the camps, many returned to their villages, planning to reclaim their land, settle and resume cultivation. As they did so, however, frequent disputes broke out over who could legitimately claim which pieces of land. In many cases, returnees found that other people had occupied their land, or they faced challenges from their own relatives over who had the right to use family land. *This Land Is Not For Sale* presents a group of case studies that illuminate the complexity of post-conflict land-claiming processes and reflect on their implications for Ugandan society and economy.

The chapters in *This Land Is Not For Sale* are written by a group of Danish and Ugandan researchers who carried out field research in separate localities but conferred frequently through personal communications and in annual workshops to refine their field inquiries, compare findings and discuss the broader implications of their work. The result is a cohesive set of local studies that combine richly detailed ethnographic accounts of individuals' and families' struggles to claim and hold on to land, with broader reflections on their relevance not only for Uganda but also for social scientists' understanding of the way rising pressure on land is reshaping African economies and societies in the early twenty-first century. Through repeated sojourns in the localities they were studying, the authors were able not only to build long-term relationships with their local interlocutors, giving them access to information that was not shared on their first visits, but also to observe changes in people's attitudes towards the cases they were involved in and their relations with one another. The result is a series of studies that illuminate the dynamics of land-claiming processes by placing anthropological fieldwork in historical and comparative perspective.

In keeping with the collaborative character and multilevel aims of the authors' research, each chapter begins with a detailed narrative of a particular case; a specific theme is then highlighted – multiplicity, belonging, aspirations, etc. – that opens the way for broader discussions of policy and anthropological theory. In a further expression of the collaborative character of the study, each chapter is co-authored by two or three members of the research team. The group includes scholars of varying seniority – tenured professors, graduate students and recent Ph.D.s – who worked together throughout the research and writing process without regard to nationality or academic rank.

By carrying out their studies in conversation with one another, Lotte Meinert, Susan Reynolds Whyte and their colleagues address common themes from multiple perspectives, enriching both the local narratives and discussions of their conceptual significance. Nearly everyone involved in making, defending and adjudicating claims on land agrees on the importance of 'development' – a consensus made possible by the polyvalence of the term. By keeping their

focus ‘close to the ground and to people who use the ground’, the authors interrogate the complexity of people’s aspirations, seeking to provide a ‘more nuanced understanding’ of responses to development. By including studies of land conflicts in Karamoja and Ik as well as Acholi communities, they also go beyond the limitations of a single ethnographic case. Together, their studies support other recent analyses in arguing that many post-conflict land disputes are too varied and complex to be justly dealt with by a single act of legislation. In effect, *This Land Is Not For Sale* makes a case that to avoid arbitrary impoverishment or dispossession local disputes must be negotiated one case at a time at the local level.

In making their case that justice in land matters is local, the authors emphasize two major themes: 1) that making and defending claims on land is a process rather than a one-off event, and 2) that processes of making, defending and/or losing claims on land hinge on relations of trust. Trust (or the lack thereof) works to promote agreement (or conflict) among claimants and between claimants, NGOs, local authorities and state officials who seek to participate in and/or govern the claiming process.

Claims on land are regulated by law, but since Uganda, like many other African countries, recognizes both statutory and customary laws, reference to legal norms tends to promote multiple understandings of who owns the land and how it may be used. In many cases, disputed claims to land are carried out outside of official channels, through networks of interaction and understanding among acquaintances. In Chapter 2, Lotte Meinert and Mette Kusk describe the first sale of land in an Ik community in north-eastern Uganda. They argue that the sale itself *created* ‘original owners’. Prior to the transaction, at least three families had been users of the land over time, and a clan leader had been the caretaker looking after the land. But because the buyer – a foreign company – needed a few specified sellers to sign the transaction papers, three ‘owners’ were established, and people who had previously used the land for different purposes were pushed aside.

Because they are ‘embedded in social relationships’, transactions in land often promote rather than quell disputes over who may do what with a piece of land. Access to and control over land hinge not only on ‘bundles of rights’ but also on bundles of obligations among the transactors, their relatives, neighbours and others. Their analysis echoes Shipton’s observation apropos development agencies’ frustration over farmers’ unpaid debts, that rural Luo often failed to pay back institutional loans *not* because they did not understand the concept of repayment but because they had more important obligations to take care of first (Shipton 2007: 101–2). In a plural legal context, transactions may serve to reinforce claims as well as vice versa. In describing the growing number of land transactions in a cocoa farming area of southern Côte d’Ivoire, Jean-Pierre Dozon

observed that the point was not ‘I am an owner, therefore I sell’ but ‘I sell, therefore I am an owner’ (Dozon 1985: 289).

Conflicts may also arise from different understandings of obligations, transactions or wealth. In the past, Shipton argued, Luo acquired livestock not to keep them but to give them away – as bridewealth, loans, collateral, funeral gifts, inheritance, etc. – transferring material wealth (in this case, animals) to other people in order to build and sustain social relationships (Shipton 2009). As population growth, urban expansion and commercialization changed the value of livestock in Kenya, the meaning of transactions changed too. Like transfers of land, transfers of livestock became increasingly commercialized, and livestock owners were more inclined to keep animals they acquired, treating them as a store of wealth to be sold only when needed to defray necessary expenses, rather than given away at the first opportunity. Yet social payments did not simply disappear. Land, cattle and other material goods – or their equivalent monetary values – continue to be transferred as wedding gifts, consumed in funerary rites or bequeathed to relatives of the deceased owners, reinforcing family ties even as they promote monetization.

The book’s focus on tensions over land within close social relationships fits with developments in other African settings. In Ghana, many people now designate their heirs while they are still alive, rather than leaving their property to be held and managed collectively by their kin group as a whole. At the same time, however, individualized inheritance may coexist with older forms of family bequest rather than replacing them. Ghana’s Law on Intestate Succession (PNDCL 111), passed in 1985, is a good example. Before the law was enacted, when a man died, his property passed to his matrilineal kin, leaving his widow to seek support from her own natal family or fend for herself. As cocoa farming became the economic mainstay of the Ghanaian economy, women who had worked on their husbands’ farms for years without pay began to claim a share of the farm(s) they had helped create. By the 1980s, their plight caught the attention of J. J. Rawlings, head of Ghana’s then military regime. To protect bereaved spouses and their children from dispossession, Rawlings’ government enacted PNDCL 111, mandating that the bulk of a deceased person’s property go to his (or her) surviving spouse, with minority shares reserved for surviving kin.<sup>1</sup> However, the law applies only to property the deceased person acquired for him/herself. ‘Family property’ in which the deceased held a beneficial interest by virtue of membership in his or her natal kin group remains family property forever. Upheld in repeated court judgments, individually held title deeds and collective customary property coexist (Berry 2022).

Land arrangements in Uganda also frequently involve combinations of statutory law, custom and social practice, often referred to as ‘legal pluralism’. In Chapter 4, Esther Acio, Lioba Lenhart and Susan Reynolds Whyte show how the

process of reclaiming land after disbanding the IDP camps fostered intergenerational tensions. Elders accused youth of being lazy and disrespectful, while young people complained that their elders were greedy, secretive and used witchcraft to secure family land for themselves. Mistrust did not sever the connections, however. Young men supported the restoration of patrilineal authority and control over land in order to claim access to family land through their elders. Those who were saving to buy land for themselves planned to do so in addition to sustaining their claims on family land. Ben Adol Otto, Michael Whyte and Susan Reynolds Whyte strike a similar note in Chapter 6 on ‘Belonging’. Social membership, they argue, is not an ascribed fact but a process: ‘belonging has to be practised’. People hold funerals and bury their relatives ‘at home’, they explain, to demonstrate that they belong to the land and the land belongs to them.

The authors share the view that land claims are best understood as social processes that play out over time as people assert their claims, challenge competing claimants, and appeal to a variety of authorities to help defend them. People with the knowledge and means to seek formal authorization of their claims may apply for titles or take land disputes to court hoping to settle them once and for all. But obtaining a title deed requires working through layers of bureaucracy – a long and expensive process that many people cannot afford and others prefer to avoid.

As the case studies in this volume make clear, probably a majority of land disputes are settled outside of official channels. This does not mean that ‘settlements’ are either straightforward or conclusive. Claimants may reach agreement on who may use a piece of land without settling the question of who owns it or attempting to consolidate multiple forms of land use in the hands of a single individual or social unit such as a household. Members of a household may cultivate a piece of land, individually or together, while allowing others to traverse the plot, hunt, gather naturally occurring plants or graze livestock on stubble left after crops have been harvested.

The variety of land uses and arrangements people have developed to enable or constrain them is vividly illustrated by Stephen Langole’s ‘autoethnographic’ account in Chapter 1. At the time of writing, Langole claimed six different pieces of land – the plot at his residence in town, another urban plot and four rural parcels. Each plot was contested on a variety of grounds. Langole hoped to secure his claim by obtaining titles for his land but confronted many obstacles, social as well as bureaucratic. Access to land, the authors explain, requires ‘a network of acquaintances’ and continuing engagement with rival claimants, potential witnesses, adjudicators, authorities and others. ‘Landholding’, Langole concludes, ‘is something that should constantly be negotiated and be accommodative of other interests’.

In all of these social processes, the authors of *This Land Is Not For Sale* emphasize the importance of trust. Trust and mistrust, they explain, are matters

of affect as well as social interaction. Whether land transactions take place and on what terms depends, in part, on how land claimants feel about one another. Transactions between parties who do not know each other are mediated by ‘inside-outsiders’, who have some familiarity with each side (Chapter 8). As many of their cases show, trust and mistrust develop through interactions shaped by would-be transactors’ behaviour and their experiences with one another. If a person is known to follow through on commitments, she/he is likely to gain access to land on more favourable terms than someone with a history of defaults. Mistrust grows where a party experiences lack of recognition and communication. Conflicts may arise over competing interests in land use, leading claimants to mistrust rival users, who cannot be relied on to respect others’ needs. An example is the case of people not being allowed to collect water, firewood and wild plants within the boundaries of national parks and forest reserves (Chapter 9 on ‘Conservation’).

Throughout their essays, Meinert, Whyte and their colleagues use key themes – development, trust, and mistrust, and claiming and governing land, as socially embedded processes – to highlight commonalities among the cases without oversimplifying or reducing them to single issues. In doing so, they draw on richly detailed studies of local conflicts to address broader theoretical debates. Arguing that struggles over land are best understood as competing claims rather than ‘rights’ that are gained or lost, the book provides strong support for treating concepts such as ownership, kinship and belonging as social processes rather than social or legal facts. Maintaining a deft balance between ethnographic specificity and larger social trends, *This Land Is Not For Sale* elucidates both the importance and the difficulty of coping with land conflicts, not only in northern Uganda but across the continent. Comprised of richly detailed and insightful local studies, the book exceeds the sum of its parts.

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## Note

1. The law applies to surviving spouses, male as well as female, but has been particularly influential in protecting widows, who often make contributions to conjugal property for years without any formal compensation (Kasanga and Kotey 2001).

## References

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