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# Access to land reconsidered: The land grab, polycentric governance and Tanzania's new wave land reform



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## ABSTRACT

Inspired by Ostrom's concept of polycentric governance, this article aims to refine the analytical framework through which contemporary access to land is analysed. By drawing on extensive fieldwork and conducting a review of the existing literature on the making and implementation of Tanzania's 1999 land reform, it challenges some of the main assumptions behind the land access and land grabbing literatures about the level at which agency is placed. Processes governing access to land are more contingent than they are most often depicted, involving actors at the local, national and international levels. National and local level actors are often more important than, in particular, the land grab literature tends to suggest. This implies that the state should be seen not merely as a site of 'legitimate theft', but also as one in which rights may be upheld. Based on the experience of Tanzania, the article suggests that analytical a priori assumptions about where agency is placed should be abandoned and replaced with empirical research into the relations between actors at all levels.

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## 1. Introduction

Access to land in sub-Saharan Africa is changing, but the literature on land is struggling to conceptualise how. The literatures on land access and land grabbing claim that 'neoliberal' reforms dating back to the 1990s are being imposed on developing countries by international level donors and financial institutions, and that these paved the way for land grabbing on a large scale when global food and agricultural commodity prices rose around 2007–8 (Berry, 1994; Benjaminsen et al., 2008; Tokar and Magdoff, 2009; Moyo, 2011). The land grabbing literature in particular emphasises the distorting influence of international actors in governing access to land. However, it also increasingly acknowledges the role of actors who derive their power from the nation state in facilitating land grabs at the local level (Amanor, 2012; Wolford et al., 2013), though it is less clear regarding the implications of these findings.

Based on empirical research into the making and implementation of Tanzania's 1999 land reform, this article points to contemporary changes in access to land that do not always sit easily with the land grab literature. First, in Tanzania donors may have been involved in financing the drawing up of policies, but government actors were more in control of policy making than depicted in the literature. Thus, though some of the more recent literature emphasises that states may play a more active role in facilitating

the transactions of land they tend to revert to the conclusion that reforms are 'pushed by the international community, particularly development banks' (Wolford et al., 2013, 193). Secondly, the decentralisation element of reform is strengthening local land administration and land dispute settlement institutions. Thirdly, demand from below for land services to enforce rights is strengthening these changes and revealing that local level users are not merely subject to reform, they themselves may influence reform outcomes. Finally, therefore, the state should be viewed not merely as a 'site of legitimate theft' (Wily, 2012b; Wolford et al., 2013; see also Peluso and Lund, 2011), but also as a site where rights to land are upheld.

The aim of this article is to propose a refinement of the analytical framework through which contemporary access to land is analysed. The concept of polycentric governance, introduced by Ostrom (2010) into the study of land and natural resource management in order to stress the important role of the state in facilitating, but not overtaking, local-level collective action makes room for analyses that acknowledge the complexity that arises when actors at a multiplicity of levels influence access. Indeed, the empirical findings from Tanzania point to the existence of actors at more levels than are included in Ostrom's conceptualisation, potentially involving actors at the local, national as well as the international levels.

Analysis of the interrelationship between these actors at different levels proved important for understanding the implementation

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of reform in Tanzania. It is a major argument of the article that the tendency to focus on actors at one or two levels, or to focus on one reform moment alone – perhaps targeting policy formulation or reform output in terms of the number of title deeds, and then making assumptions about the rest – risks blurring our understanding of contemporary access to land. Polycentric governance implies that access to land should be analysed as more contingent processes. Whilst the analysis is inspired by the access literature and its emphasis on gradual institutional change over longer periods of time (Berry, 1993; Ribot and Peluso, 2003; Sikor and Lund, 2009), it thus broadens the empirical attention from the local to include actors at all levels.

Tanzania's land reform – the Land Act and the Village Land Act – was passed by parliament in 1999. It is interesting because the country was among the first of the 32 African countries to initiate a land reform process after the end of the Cold War (Wily, 2012a). Most of these reforms share of number of characteristics qualifying them for the label of a new wave land reform. First, they often facilitate the registration and titling of rights to land with the dual goal of enhancing tenure security and promoting markets in land. Secondly, they decentralise responsibility for land administration to the local level. Finally, they recognise existing rights to land, including customary rights. In comparison, past post-colonial reforms most often promoted state-led redistribution and/or nationalisation (Wily, 2003b; Lipton, 2009; Polack et al., 2013; Pedersen, 2013). Manji has called Tanzania's contemporary reform process 'an exemplar' of land reform processes on the continent (Manji, 2006, 44). Therefore, it would appear to be a good case for examining the claim that the new wave land reforms have been imposed on developing countries by international financial institutions to facilitate the grabbing of land locally.

The article combines reviews of the existing literature on experience with new wave land reforms in Tanzania and elsewhere in sub-Saharan Africa and on land access and land grabbing in Tanzania with empirical research into the implementation of reform in mainland Tanzania, which was carried out over a total of ten months in 2009–12. The article thus points to changes in access to land based on *existing* empirical research; it does not claim to have researched all aspects of land access, land grabbing or land reform implementation Tanzania in every detail. There are still things we do not know (see Map 1).

One hundred and seven structured, qualitative, in-depth interviews with villagers, elders, local leaders, district officials, court representatives, NGO representatives and ministry officials were conducted during the fieldwork period in Handeni and Kiteto Districts in the north-eastern part of Tanzania and in the Ministry of Lands, Housing and Human Settlements Development in Dar es Salaam. Interviews focused on the reform's implementation, that is, how land was administered, how disputes over land were settled, and the extent to which these institutions and practices had changed due to reform. Interviews were supplemented with information from documents in village offices, land conflict councils and formal courts, as well as with reports from the Ministry of Land. Some figures about the settlement of land conflicts are provided in the article, but since documentation in village and court offices is sometimes incomplete they should be read as indicative of change rather than absolute proof.

This introduction is followed by a brief discussion of the respective literatures on land grabbing and land access, which share the analysis that contemporary market-friendly land reforms have been imposed on developing countries by international donors. Through empirical research into the making and implementation of Tanzania's new wave land reform, the following sections seek to develop a better understanding of what polycentric governance means for access to land in practice. The third section sheds light on the claim propagated in the literature on land that new wave

land reforms are being imposed on developing countries by international donors. The fourth section suggests that the role of local institutions is growing over time. The fifth section finds that local users may influence reform outcomes. The sixth section returns to the land grab literature and argues that Tanzania's reform has helped local actors protect their rights to land, implying that contemporary access to land is governed by processes that are more contingent than is often depicted in the literature. This section is followed by the article's conclusion.

## 2. Land grabbing, access to land and new-wave land reforms

The land grab literature, in particular in its earlier phases, has tended to focus on the decisive role of global agricultural commodity prices and transnational finance in driving the supposed wave of large-scale land acquisitions in the late 2000s. However, it was soon acknowledged that state actors play a decisive role in facilitating land transactions, often to the detriment of local users (Peluso and Lund, 2011; Wolford et al., 2013, 197). This diagnosis rests on often implicit assumptions about the 'neoliberal' policies that have been passed by governments over the last three decades that enable land grabs either because state capacity is undermined by structural adjustment or because the reforms merely encourage land markets to emerge that lack regulation. Though rarely analysed in detail, contemporary, market-friendly land reforms tend to be depicted as tools with which to dispossess the poor of their land (Borras and Franco, 2010).

In many ways, the land grab literature's understanding of this issue builds on an important and strong critical tradition founded by a number of primarily African or African based scholars *prior* to the spike in global prices for agricultural commodities in 2007–8. When analysing contemporary, neo-colonial reforms, these scholars pay more attention to the role of national politics and policies, in shaping access to land in Africa than does the land grab literature. From a more or less Marxist point of view, these authors stress that the new wave land reforms has been decisively influenced by foreign donors, the World Bank in particular, and subsequently used by national elites and transnational finance to grab land to the detriment of the poor, sometimes not very dissimilar to colonial land grabbing in the past (Manji, 2006; Nyamu-Musembi, 2007; Shivji and Wuyts, 2008; Moyo, 2008).

Another strand of research predating the land grabbing literature that is equally critical of neo-liberal land reforms, but less certain about their outcomes, is made up of a number of scholars who focus on access to land and who already started emphasising local context and culture as the decisive factors in the governance of access to land back in the 1990s (Pedersen, 2013). The access study tradition evolves over the years, but overall, by drawing on a tradition of criticising state-led reform for disadvantaging the poor (Blaikie, 1981, 1985, 1989), they explore how the World Bank's structural adjustment programs and state policies have facilitated the privatisation and individualisation of land and the emergence of private land markets. These interventions are bound to fail, they predict, because they are not adjusted to African realities. Whilst African states may grant individual rights to land, what goes on at the local level is another matter. In her groundbreaking book *No Condition is Permanent*, Sara Berry suggests that land ownership in Africa is not individualised as in the West. Rather, it is marked by its communal character, which renders rights to land subject to constant renegotiations, as was the case even towards the end of the twentieth century when she was writing (Berry, 1993, 16–17).

The fluid and dynamic nature of rights and institutions that are not fully controlled by the African state becomes an important topic in access analysis. A distinction between state provided rights and what people actually do to secure access to land is becoming

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