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Land Contestation at the Micro Scale: Struggles for Space in the African Marshes

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Summary. — Africa is increasingly confronted with the commercialization of its space. Whereas attention mainly goes to macro-scale land grabs, land contestation and grabbing at the micro scale are largely ignored. This paper analyses how local actors instrumentalize the renegotiation over African wetland rights to call into question the prevailing social order. We illustrate how deficiencies in formal instruments allow certain powerful actors to capture the momentum of an open moment. We plead in favor of a better understanding of political power struggles through which land rights are shaped; and point to the shortcomings of a technocratic approach to land governance.

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Key words — land rights, “open moment”, institutional confusion, Africa, Rwanda, DRC, Mozambique

1. INTRODUCTION

In a context of globalization and liberalization, Africa is increasingly confronted with the commercialization of its space. The phenomenon of large-scale land acquisitions is intensely discussed, both in the media as well as in donor and academic circles. Whereas some sources point to the opportunities embedded in large-scale investments poured into the agricultural sector in poor countries (see e.g., World Bank, 2010); other more critical voices call into question the dominance of the agro-industrial food industry altogether and argue in favor of agrarian models based upon the productive potential of small-scale farmers (see e.g., Borrás & Franco, 2010; De Schutter, 2011).

While “big” cases of land grabbing are spread out in the media and attract most of the international attention, this paper argues that land contestation and grabbing taking place at the micro scale may be as uprooting for local living conditions. Indeed, struggles over land rights have always taken place in the African continent while “land [as a specific policy focus] has been moved onto and off center stage over the past hundred plus years” (Peters, 2009: 1322). Discussions over individualization and privatization of land rights are not new phenomena (see e.g., Bruce & Migot-Adholla, 1994; Lund, 2001; Peters, 2013; Shipton, 1989). It is therefore important to insert the current debate on the commercialization of space in Africa into a historical perspective that takes account of the locally embedded and historically shaped forms of land governance that have always been part of African realities.

However, at the same time, it is clear that the frequency and intensity of everyday forms of land transfers, dispossession and alienation, have increased in a context of rising land scarcity.

Since the 1960–70s proliferation of “land reform” in Africa, the main policy response to increasing land scarcity has been in favor of individualized and private land rights protected by centrally registered legal titles (see e.g., De Soto, 2000; Deininger & Feder, 2009; World Bank, 2003; World Bank, 2007). This technocratic approach to land governance—focusing upon how to improve formal land arrangements—implicitly confirms the sovereignty of the state in dealing with land issues. However, although formal or official land laws seem to clearly frame land rights, in reality struggles for access to land take place in an extremely pluralist context. Indeed, in many developing countries, only a limited section of the population has inserted itself into the official logic, while many could not (due to the cost) and did not want to adhere to official land registration policies (see e.g., Benjaminsen, Holden, Lund, and Sjaastad, 2009). Next to the formal legal framework, other normative logics—especially customary norms—have continued to exist and have been adapted to a context of increasing land scarcity (Peters, 2009). Land rights are therefore negotiated in a context of “legal pluralism” in which various institutional frameworks (both formal and informal)

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interact, reinforce, and compete with each other (Meinzen-Dick & Pradhan, 2002). In practice, more powerful actors often manage to use this context of “institutional confusion” to reinforce their own land claims.

This paper studies the way in which everyday forms of land transfers, dispossession and alienation impact on local living conditions, and focuses on the role of national and local actors in such micro-level land contestation. It analyses three case studies (Rwanda, DRC, and Mozambique) of struggles for space in African marshes that illustrate the more generic processes taking place in the African land arena. The first part introduces a theoretical framework that facilitates the analysis of processes of micro-level land contestation. The second part applies the framework to marshland enclosure in three case countries. We examine how various local actors instrumentalize the “open moments”—initiated by renegotiations over wetland rights—to call into question the prevailing social order. The case studies illustrate how power relations allow particular groups of national and local actors to capture the momentum of institutional confusion to reinforce their own interests. Our conclusion pleads in favor of a better understanding of the political power struggles through which state structures are shaped; and points to the shortcomings in a purely technocratic approach to land governance.

2. OPEN MOMENTS AND LAND CONTESTATION AT A MICRO SCALE

Struggles over land are shaped by an institutional landscape, defined by Bastiaensen, De Herdt, and D’Exelle (2005: 981) as “a pluriform, involving different public arenas, being the product of different historical periods and based on varying meaning systems, rules, and actors.”¹ Institutional landscapes are not fixed though; they only exist through continuous processes of governance and contested power relations. Within these processes, meaning systems and rules are continuously being adapted to changing contexts through everyday negotiations between local actors. Scarcity of land is such a contextual factor driving people to re-interpret and adapt practical norms that determine the local governance² of land; practical norms being the norms that regulate everyday life and determine people’s behavior (in contrast to moral or official norms which are not always followed in daily reality) (Olivier de Sardan, 2008).

As such, processes of institutional change are gradual and incremental (framed within a particular historical context), involving gradually changing practical norms. This does however not mean that such processes are per definition slow. A certain event or causal chain (such as steeply rising land scarcity) can for example suddenly transform the process of institutional change from a very slow gradual evolution into an “open moment,” defined by Lund as “particularly intense periods of rearrangement of the social order” (Lund, 1998: 1).³ During these “rearrangements,” local practical norms and power relations are typically questioned and reformulated. To explain this better, Lund refers to the concept of “situational adjustment,” defined as “processes whereby people exploit the indeterminacies of the situation, and even generate indeterminacies, to reinterpret or redefine rules or relationships. An ‘open moment’ is a situation where the room for such situational adjustment is great and hence where the capacity to exploit it is crucial for the actors.” (Lund, 1998: 2) The open moment thus has to be “consumed” by actors who take advantage or not of created indeterminacies. In the land arena, “open moments” allow local actors to make use of institutional confusion to reinforce or challenge land claims.

The concept of power is crucial in understanding the ways in which open moments are instrumentalized. We align to Long’s definition of power as a product “of complex struggles and negotiations over authority, status, reputation and resources” (Long, 2001: 71). In fact, an “open moment” represents an intensified moment within these struggles, which “offers a double-edged possibility of reassertion or erosion of power” (Lund, 1998: 2). Institutional confusion might have emancipatory potential for vulnerable groups in society (Meinzen-Dick & Pradhan, 2002). However, in moments of social fluctuation, more powerful actors are often better equipped to exploit the resulting negotiability and ambiguity to bolster their claims and increase their control over land (Peters, 2002; for case studies, see Ansoms and Marysse, 2011). The power imbalances often allow them to capture the momentum of the “open moment” to reinforce their own interests. In turn, the capacity or the ability of actors to exploit the indeterminacies that characterize the open moment further contributes to the affirmation of existing power imbalances.

In the context of the land arena, the redefinition of local norms on access and exclusion therefore often results in a reconfirmation and even deepening of existing land inequalities. Particularly vulnerable groups of small-scale peasants “end up at the losing end of the bargaining game” (cf. definition of poverty in Bastiaensen *et al.*, 2005). The discourse on un(der)utilized spaces, for example, is a powerful tool in the hands of more powerful actors to support “productivity-enhancing” land acquisition at the expense of more vulnerable groups. These are in practice often subsistence farmers who are deprived of user rights on what used to be “their” land, crucial for their livelihoods (Hall, 2011; Lynch, Binns, & Olofin, 2001). Moreover, the polarization in the land arena has an impact far beyond an economic meaning, given that land is not only crucial in terms of generating a livelihood, but also shapes people’s identity and sense of belonging within the local social milieu. In this way, micro-level processes of land contestation contribute to the reinforcement of inequality beyond the land arena as such.

The case studies described below illustrate how rapidly increasing land scarcity has triggered “open moments” in which local practical norms on access to wetland space are fundamentally called into question. Wetland zones in Africa were historically seen as a kind of “excess land” that could be used for communal purposes. Yet, in the context of rising population pressure and competition over land, wetland has increasingly been enclosed (Bernstein, David, & Woodhouse, 2000). As a result, farmers intensified the use of marshes for food crop production. Historically, wetland was still relatively abundant space available for whoever was physically capable of preparing the fields for cultivation. Land scarcity however mounted, making this “abundant” land the subject of intense land conflict. Because the contestation over land rights in these spaces is recent, wetlands provide an interesting arena to study contemporary local processes of land transfers, dispossession, and alienation taking place at the micro level.

3. STRUGGLES FOR SPACE IN THE AFRICAN MARSHES

(a) *Land contestation through reinforced “modernity” in Rwanda*

Rwandan swamplands have long been an important natural resource for local peasant communities. Altogether it covers about 10% of Rwandan territory. Originally, the Rwandan

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