

LAND TENURE CHANGES IN BANDUNDU REGION, ZAIRE

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The current agricultural crisis in Africa makes it necessary to concentrate research and resources on issues that relate to African food production or rapid population growth. One such theme is the changing character of customary land tenure systems. This subject has often been ignored in African rural development projects, in part because of a colonial legacy of neglect toward local rules of land ownership. In Zaire, for example, large areas were alienated to private plantation owners even if the local population of bush-fallow cultivators claimed to be keeping the land in fallow in anticipation of future needs. Today, it is finally being recognized in development circles that land tenure must be better understood as part of the process of stimulating rural growth. It has also become clear that tenure regulations are varied and complex; they reflect the movement of and contact between ethnic groups over hundreds of years and are now in a state of flux due to the uneven impact of both the African state and the cash-based economy.

Customary tenure is still an important force in much of Africa, even where it is in the throes of adaptation and change. It is based on the concept that land is a sacred commodity, occupied by the first migrants into an area and used carefully so that it continues to be productive. Thus, at any one time, land belongs simultaneously to past, present and future generations of a lineage or of the larger clan. The rights to use of the land (usufruct) as opposed to ownership are determined by a designated individual or group within the lineage (land chiefs) with several goals in mind: (1) each family should have enough land for subsistence purposes; (2) the allocation should be equitable so that differences in quality are compensated for by adjustments of quantity; and (3) the land is not allowed to deteriorate but is instead rested whenever there is a need to restore soil structure or fertility.¹ The land chiefs usually

¹Raymond Noronha and Francis Lethem, *Traditional Land Tenure and Land Use Systems in the Design of Agricultural Projects* Working Papers No. 581 (Washington, D.C.: World Bank, 1983).

receive gifts in exchange for their services that can include the promise of allocations from the annual harvests.

Typically, fields are distributed to families to be used for several years until they are returned to fallow and held for eventual redistribution. It would be unusual for the current cultivators to prematurely lose access to a plot of land as long as land use practices conformed to custom. Disputes would be settled by adjacent land chiefs or by another acceptable method, usually without any serious disruption.

The approach to land distribution in a bush-fallow system tends to work effectively, until the introduction of cash crops and/or a growing population density present additional elements that cannot be accommodated by the system. For example, the cultivation of a new crop in an area is usually followed by an increase in the general demand for land, in part as a result of a rise in the rate of immigration. Under these circumstances, individual farmers, particularly outsiders with a less than definitive claim to land in the area, are constrained in making land use decisions for any crop that requires a long-term investment. Although in some situations immigrants might find it easy to obtain land and any ongoing association with the land chief would be a formality, immigrants are often discouraged from cash-cropping because they retain an ambiguous status whereby their rights to use land can be revoked. It is even possible that members of the local lineage can be deterred from making investments if the long term occupation of the land is discouraged by a corporate group that favors the continued circulation of fields.

There is no consensus as to the relative value of customary versus freehold tenure when cash crop cultivation becomes widespread. In some areas the traditional authorities have retained their powerful role; whereas in others they have been unable to prevent the change in the status of land from communal resource to market commodity.² Some analysts claim that freehold tenure is critical to commercial agriculture, since farmers may be unable to obtain credit without a clear land title and

²Michael Lipton, *Land Assets and Rural Poverty* Working Papers No. 744 (Washington, D.C.: World Bank, 1985), p. 5.

are reluctant to invest in property that they cannot control. These analysts do acknowledge, however, that there is a negative aspect of the freehold system: It accelerates the emergence of both large farms and of the phenomenon of landlessness.³

CASE STUDY

In order to better understand the role of tenure systems in facilitating increased agricultural productivity, it is useful to examine one rural area in more detail. The examples used in this case are Bulungu and Idiofa zones in Bandundu Region, Zaire. Population density in this area is low as compared to African agricultural areas as a whole, but both density and cash cropping are increasing. Information is available for Bandundu Region because a local USAID project has stimulated studies of farming and land tenure. The author participated in one of these studies organized through a SARSA (Settlement and Resource Assessment) contract with USAID, but most of the original field work was carried out before the SARSA team arrived in Zaire.

The climate of Bandundu Region is characterized by a four-month dry season and an annual total of 1,550 mm of precipitation. The soils of the two zones in question (Bulungu and Idiofa) are generally acidic, relatively infertile, and limited in their ability to hold moisture. These soils vary along an undulating surface with sandy soils dominating the hills while greater clay content and fertility characterize the soils of the valleys. The entire surface ranges in elevation from an average of 700 meters in the south to 300 meters along the Kasai River (Figure 1).

The population of Bulungu and Idiofa is spread unevenly across the landscape with an average density of 26.6 square kilometers. This population is ethnically very complex and as many as fourteen different linguistic groups can be distinguished as well as two *lingua franca*, Lingala and Kikongo. In rural areas, people traditionally arranged themselves in scattered homesteads but some villages had emerged by the late nineteenth century as part of an attempt to achieve security during periods of endemic warfare. These villages were made permanent and new ones were created by the colonial

³J.T. Fleming, "Tenural Reform as a Prerequisite to the Green Revolution," *World Development* 3, no. 1 (1975): 47-48.

The major activity in Idiofa and Bulongu zones is subsistence agriculture but there is a gradual movement toward the cash economy. The impetus for change comes from several sources: a desire for education or a need for medicine or household items. Generating this cash has, until recently, meant either working part-time as an artisan or trader, or eating less and selling more of the annual crop, or expanding the acreage cultivated. The most practical route to higher incomes for farmers, increasing crop yields, has usually not been attempted. Typically cultivators have lacked information about methods of improving productivity as well as about access to inputs.

Another barrier to increased production is the market situation. Although there are customers in Kinshasa for local produce, particularly maize and cassava, deteriorating roads, a lack of spare parts, and high fuel prices keep traders away from many villages. Farmers must also deal with an inadequate supply of storage facilities and the low prices that traders offer for crops when there is no competition.

The people of Bandundu Region are divided into matrilineal descent groups that vary in size and include clans, lineages, and localized sublineages. These descent groups have control over the distribution of land. Superimposed on this social structure are political divisions that are part of the apparatus of the Zaire government. The country is divided into regions, subregions, zones, collectivities, groupments, and localities, the latter often amounting to little more than a village. The groupment is particularly important from our perspective because each of these divisions usually corresponds to a land owning group with its own local leadership.⁴

Understanding the mechanism of local tenure in Bulongu and Idiofa requires an examination of the sequential settlement of the area. Current evidence points to migrations from the north in the sixteenth to eighteenth century which brought in people known collectively as the Gabon group. In the nineteenth and early twentieth centuries a second wave moved north from Angola. Since the earlier migrants dominated access to land, the southern group had to negotiate for territory, a process that usually

⁴Richard Downs and Cyril Daddieh, "Documents Review: Area Food and Marketing Development Project, Zaire" (Worcester, MA: The Cooperative Agreement on Human Settlements and Natural Resource Systems Analysis, 1985).

involved the exchange of gifts and implied a lower status for late comers. The system of land allocation was made more complex by the presence of former slaves. Slaves technically became members of the kinship group of their former owners but their status with regard to land remained inferior. An examination of the distribution of different groups today reveals that the descendants of the earlier arrivals tend to occupy more fertile forest soils while descendants of the southern groups and slaves are concentrated in the sandy soil areas.

Much of the information on land tenure in the area has been compiled from field research by James Riddell who was commissioned by USAID to look into the issue and its relevance to rural development projects. According to his study, there is widespread agreement on who owns land and on the identity of each of the land chiefs, the recognized authority on allocation. Customary land law specifies, given the matrilineal system that prevails in the area, that the right to use land is acquired by males through their mothers' kinship group, specifically through maternal uncles. Viewed from the opposite perspective, brothers compete with each other for the support of their sisters who will produce the brothers' male heirs. Since women usually live in their husbands' villages, boys are physically separate from the land that they will eventually farm as adults.

Although this system sounds rigid and perhaps not conducive to improvements in productivity, there are actually mechanisms that allow for flexibility. For example, it is becoming increasingly common, especially in and around towns, for men to want their holdings to pass to their own sons. This can be accomplished by acquiring land not controlled by the kinship group (to be discussed later) or by marrying a female relative so that sons can obtain local land through their mothers (cross-cousin marriage).⁵

Aside from the particular circumstances involving sons, land tenure rules have been shown to be flexible in other ways. As long as land was not considered to be in short supply there were mechanisms that allowed for outsiders to obtain the right to use land as evidenced by the allocations made to the second wave of migrants. At the most basic level, land could be borrowed for a designated period. This

⁵James C. Riddell, "Land Tenure in Central Bandandu," USAID Report, 1986.

strategy has been used to assist farmers whose fields had become increasingly remote due to the growth of villages or the village relocation after the death of a chief. Longer term access could be negotiated as well, with the understanding that the land ultimately belonged to the original lineage. After several generations, groups of immigrants might have their own land chiefs and any association with the original lineage could be expected to weaken, but this was not necessarily a problem if land was not a scarce commodity.

The mechanisms for the exchange of land usually functioned adequately as long as two requirements were met: (1) appropriate gifts were exchanged at the time of the transaction and at regular intervals thereafter (sometimes for a designated period); (2) the land continued to be used for the purposes that were originally stipulated. The system included an escape clause of sorts. If a land recipient was deemed unsuitable by the community because of anti-social behavior or activities in conflict with the terms of the original agreement, a direct or, more likely, indirect strategy would be used to remove him from the area. Needless to say, those most remote from the local lineage (or, more recently from the national power structure), would be under the greatest pressure to avoid confrontations.⁶

Land disputes have always occurred because of imprecise boundaries, but as a rule they could be easily settled. When a lineage boundary was in question, for example, neighboring land chiefs could negotiate a compromise. If the decisions of land chiefs were not accepted by all the interested parties then a village chief might be asked to intervene. In the recent past the government has come to play a larger role in land adjudication, but not without complete cooperation with the customary leaders. The government might convene a *tribunal coutumier* to discuss a thorny problem but only in response to a local request.

CONTINUITY AND CHANGE

New circumstances are causing some modifications of the established land tenure system, but there has been no dramatic break with tradition. Perhaps the most important innovation has been the idea of the land concession. The current meaning of the term is quite different from the colonial concept.

⁶Ibid., p. 7.

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During the period of Belgian dominance in the Congo, land was alienated (usually on a 99-year lease) by individual plantation owners or companies without much consideration being given to established rights. Now the term concession involves the transfer of specific fields to Zaire farmers for a type of production that is not part of the traditional system. This arrangement, known as the *ferme a convention*, is used for such activities as coffee production, cattle rearing, and the establishment of fish ponds, all of which are recent introductions and thus have no association with the ancestral use of the land. To obtain such a concession, a farmer must have the permission of the land chief and the entire local lineage as well as local civil authorities. When all are in agreement, the land is effectively turned over to the applicant and registered with the local Ministry of Agriculture office. This process may resemble a land sale but there are important differences: (1) the customary authorities must approve; (2) the transaction must follow the established pattern with gift exchanges that sometimes include the promise of annual offerings; and (3) there is an understanding that ultimate rights belong to the original lineage (as in the case of the 99-year lease).⁷ Thus the cultivator who has negotiated for the land can pass it to his son, but the agreement can be called into question if the farmer does not follow through on the original land use plan or if he makes himself disagreeable in some way.

Although the land concession seems to provide a technique for dealing with changes in the demand for land, there are still problems with this approach. It is clear, for example, that the potential for acquiring concessions varies with clan policy, with the ability of applicants to establish a link to the local population, and additional factors such as population density and location. Although there is still not a land market in rural areas, there is quite a range in the number and types of gifts that are required in exchange for a concession. Land that is located near towns or along maintained roads is most in demand, yet such land is often least likely to be alienated by lineage even if the exchange of gifts is considerable.

The competition between applicants for concessions and applicants responsible for safeguarding long-term lineage interests has already led to conflicts. In some areas fish farms have been vandalized, an

⁷Rebecca Durk-Jones, "Analysis of the Village Profile, Central Bandundu," USAID Report, 1984, p. 32.

action prompted by both an anti-concession bias and jealousy over the economic success of the enterprise. In other cases urban migrants have returned after a long sojourn only to find that their land had been transferred to a concessionaire. Subsequent legal cases have upheld the contract between the lineage and the operator of the *ferme a convention*.

Some of the most interesting situations with regard to land use are occurring within or near towns. The most important urban place in the area is Kikwit (165,000), where almost all households grow crops for their own needs but many also cultivate maize, manioc, groundnuts, fruits, and vegetables for the local market. As a result there is an escalating demand for land in and around Kikwit that may threaten the continuity of customary tenure. Currently requests for concessions usually start with the lineage in the surrounding collectivities much as they do in the rural areas, but the level of gifts demanded in exchange can be so high as to exclude most rural-urban migrants attempting to obtain income from a fish pond or an agricultural enterprise. Thus the best land is in short supply, making it necessary to cultivate some of the steeply sloping, erodible land near the Kwilu River.⁸

CONCLUSION

The Zaire case is characterized by a vigorous customary tenure system that seems to have enough inherent flexibility to accommodate change from a subsistence to a mixed subsistence/commercial rural economy. However, there are potential weaknesses in the system that need to be explored. In the past lineages often dealt with newcomers by arranging for them to use the least desirable land. Today concessions are handled in a similar way, as when an applicant for a cattle pasture is allocated a field on savannah land that is marginal for crops.

This type of pragmatism seems to dominate transactions until the problem of land scarcity becomes a factor as it is in the urban perimeter or areas with dense rural populations. Under conditions of land competition, lineages have actually tried to reclaim both concessions and land that had been "lent" to immigrants as long as 80 years previously. The founding lineages still seem to fear that subsequent

⁸Deborah Prindle, "Zaire Rural-Urban Profile," USAID, RHUDO Report, 1984.

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settlers have less of an association with the sacred qualities of the land and more of a willingness to treat land as a commodity. In some cases the spirit of cooperation, which developed between adjacent groups over several generations, dissipates rapidly once the land's cash value is established.⁹

Perhaps one reason that land competition is not even more widespread is the general lack of development in the area. Zaire as a whole has suffered economic decline, but the situation in Bandundu has been exacerbated by widespread civil unrest in the 1960s, which was followed by a period of government neglect. Now there is a paved road from Kinshasa to Kikwit and several agricultural projects are in progress or planned; thus, the potential for economic growth and subsequent land pressure is increasing. So far there has been a balance between the need to protect access to land as a basic resource and the need to alienate land for development, but that balance is in danger of being undermined.

The critical question now is: Should the government support a conversion to freehold tenure in order to expedite economic growth or should it maintain the current situation? If the government does modify its position and tries to encourage land alienation there will be considerable resistance. Farmers in Bandundu are likely to decide that their future security lies in protecting their collective resource rather than in seeking individual land titles--a conviction that will probably become stronger.

Currently, land tenure is not a serious impediment to rural development. The tenure system does not seem to be interfering with the adoption of new techniques and varieties, and may actually make farmers feel more secure about the future. Thus, in spite of its imperfections, it makes sense to protect community control of land against incursions by the Zaire government, especially given its high level of corruption. Maintaining traditional tenure may actually be the best way to ensure the survival of Zaire's rural population for the near future.

⁹William Pruitt, "Small Farmer Study: Central Bandundu, Notes in Progress," USAID, DEO Report, 1984.

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