Abstract

The combination of globalisation, economic liberalisation and a growing emphasis on customary land administration often creates the conditions for local exclusion and expropriation of land in the African context. Delineating the boundaries of customary land opens up the transaction of the rest of the land with foreign investors. Communities are frequently characterised by social differentiation. It is usually the wealthy and powerful within local communities who control the process of land administration and allocation and the definition of customary interests. Those who control customary land administration often have an interest in the commodification of land. The concept of the customary can be manipulated to dispossess the poor and marginalised and open up the exploitation of rural areas by global capital. The paper provides several case studies which document how the strengthening of customary land administration by the state often increases the plight of the poor and weakens their access to land and other natural resources.
Neoliberal policy frameworks argue that the prerequisites for successful development are secure property right, an effective and impartial judicial system, a transparent regulatory system, and an institutional framework that permits complex impersonal exchange and enforcement of contracts. In the New Institutional Economics, in which these ideas originate, it is argued that the West was able to develop because it created the right institutional framework to safeguard property rights and political and judicial institutions that effectively and impartially enforced contracts (North, 1990). Much of the focus of contemporary land reform policies is concerned with freeing up market processes in the transaction of land, and creating efficient land administration systems and information systems that will lower transaction costs and speed up the time to process transactions.

Globalisation tends to increase social differentiation. It results in the rise of “superstar” regions, which become the focus of economic growth and marginal backwaters (Perrons, 2004). The marginal backwaters are characterised by high unemployment and stagnant regional economies that can no longer compete on global markets. This includes many formerly prosperous agricultural regions, which have been left behind by the opening up of production in new regions and the ability of agribusiness and supermarket chains to source products from the cheapest production regions in the world. In some developed countries, agricultural producers are being subsidised to keep land out of production and grants are given for the environmental conservation of formerly productive lands. Former agricultural lands are becoming converted into real estate and recreational facilities, and the prospering business and professional elites within urban areas relocate to the countryside or establish second homes in the countryside. Many rural areas become drawn into real estate and a process of gentrification of rural areas occurs in which the urban rich take up the process of investing in recreational land and land conservation, resulting in the escalation of prices for rural land.

This process of commodification of rural land values extends into developing countries, which become the subject to the same developments of real estate and conversion of periurban and rural areas into real estate. Agribusiness searches for potential new areas of investment throughout the world, which will bring large profits. However, land acquisition is often hindered by the characteristics of existing land markets and customary land arrangements. State land cadastres and land registration are not comprehensive or efficient. Only a small percent of total land holdings are mapped, registered or maintained in databases. The process of land acquisition is slow. Transaction costs are high. The prospective land purchaser has to acquire considerable information on the land before they can make a decision. Transactions are often risky, since ownership is often disputed and subject to various claims on ownership or to multiple ownership. To address these problems neoliberal land reform has to address the issue of customary land and the relations between customary and state land administration. Many of the contemporary concerns with land reform focus on finding ways of harmonising customary land tenure with land registration, and finding ways of mapping customary relations alongside cadastral surveys (Levigne Deville, 2000). Reforms of land administration are concerned with fining new ways of registering and delimiting customary plots, and collecting information about customary ownership. It is not easy to register and plot all customary plots, since they are sometimes subject to intractable disputes. However, those areas that are subject to disputes can be differentiated from those with more clear-cut ownership.
This information allows prospective investors to differentiate “no-go areas” from the “safer” and “more transparent” areas where they can acquire land. As investors focus on these areas, potential land sellers in the other areas will be forced to negotiate settlements to their land problems and come out with more transparent property rights, if they wish to participate in global markets.

Neoliberal theories claim to be concerned with promoting equitable growth. However, neoliberalism is much less concerned with rights to a livelihoods and employment than secure property rights. Unemployment is recognised as an inherent fact of life, and neoliberal policies are prepared to put up with high unemployment rates (Perron, 2004). Social theory within neoliberalism is woefully inadequate. Political economy is increasingly marginalised in the contemporary politics of development, and notions of class have been replaced by concepts of civil society, social capital and community participation (Fine, 2001). The major social contradictions are seen as existing between community and state, and the main aim of policy interventions are to empower the community to hold both state and citizens accountable to the common good.

The notion of the community of common good is problematic. The community is often socially differentiated. Included in this social differentiation are those who use local resources to make a modest livelihood; and those seeking to make alliances with external agents, investors and networks, to transform the existing patterns of resource usage and gain access to new wealth. The latter intend to benefit individually from this vision of new wealth, even if it means frustrating the existing livelihood strategies and access to resources of the rural poor. Development as they understand it, and as they perceive from much of the external world, involves increasing social differentiation in which the poor grow poorer and those who are able to seize the opportunity of capitalism grow richer. Their intention is to join the bandwagon of the prosperous, and they often see the poor as an obstacle standing in the way of the realisation of wealth.

Within contemporary policy frameworks the community, the customary, and traditional authority structures are rarely problematised. Contemporary land reform is concerned with building community based solutions, strengthening customary land law, and building up traditional authorities. There are three problems with this concept of the customary.

Firstly, the community is empowered and ultimately defined by the state. The state defines what are legitimate communities and community interests and which communities and community actions lie beyond the law. The act of recognising traditional rulers as representatives of communities and as trustees of community land is an act of political definition of rural citizens and their relationship to land. The present position of most traditional authorities refers back to the recent colonial context of Indirect Rule or association, rather than to a precolonial historical past. Tradition is rooted in mythical symbols of an arcadian past rather than in historical processes. The articulation of customary tenure often mirrors colonial perceptions, and colonial concerns of making African social relations conform to notions of communal society, which would enable rural citizens to be policed by notions of the interest of “community development” (Cowen and Shenton, 1994). These concerns enabled colonial rule to introduce political coercion, of which forced labour was a
prime example. Coercion could be justified with recourse to the notion that it was part of the African tribal past, and that it was being exercised by African rulers, exercising their traditional rights (Mamdani, 1996).

Secondly, customary rights are often contested within the community, and subject to political definition and redefinition. Berry (1993; 2001) points out that the act of redefining the customary is associated with investing in social networks that gain political support for those trying to transform customary relations in their interest. Many commentators have assumed that this proves that the customary is changing and dynamic (and thus a good thing). However, this also shows that the customary is open to political manipulation. By definition, those who can transform the customary, and accommodate it to the contemporary reality, are the rich and powerful, who have the social connections and the capital to sustain these connections.

Thirdly, the recourse to notions of customary rights to justify land relations are usually acts of justifying privilege and changes in existing property relations in favour the privileged. The customary only acquires its ideological power in the context of change, where people are attempting to establish a code of conduct to deal with change, or precedents on which to deal with change. The customary usually justifies privilege. The privileged justify their usurpation of the rights of others by reference to historical precedence, rather than to other social normative principles. As Chanock (1991) argues, the notion of customary land tenure in Africa has tended to deny the peasantry rights in land. This is achieved through notions that usufructuary rights are vested in traditional rulers, who have the ultimate power and control of land.

Today, in Africa, traditional authorities are seen by several commentators as a major force standing for community interests against the neopatrimonial interests of the state. However, traditional authorities frequently straddle the worlds of the political elite (Bayart, 1993; Arhin, 2001). Traditional rulers frequently belong to the business and professional classes. They are intermarried with the political elites and often have their own business empires. Business people also buy chieftaincy titles, which are viewed as a way of gaining prestige, political influence, and control over resources. Many chiefs have closer social ties and share similar mindsets with business and political contacts than with their own subjects. Yet, they are promoted as an independent civil society groups standing up for the rights of the rural poor.

Economic liberalisation and export-oriented growth has tended to result in an increased commodification of natural resources, and their appropriation for export sectors. The combination of export-oriented growth and reinvention of a civil society aligned to processes of liberalisation creates powerful social forces and alliances that attempt to redefine land relations from within the community. The state provides political elites in rural areas with the space to create the necessary internal socio-political conditions and changes for the exploitation of resources by investors for international markets. The political elites and aspiring capitalists within rural areas build networks for the control and appropriation of land and other natural resources. Political elites and chiefs with rural areas are given the power to redefine the customary tenure. They are expected to carry out reforms that accommodate economic liberalism and open up the rural areas to international markets and external investors.
Export crop frontiers

One of the characteristics of many export crop frontiers in Africa (particular West Africa) is that their development is often carried out from outside the locality, by migrant farmers and labourers. They are characterised by transactions of land between local chiefs and migrants. Chiefs cannot sell land to local citizens who hold rights to farm land freely as citizens. Therefore, lands can only be transacted them with people who are strangers and not citizens, people who hold no rights to resources in the locality.

In the Gold Coast, export crop frontiers began from the 1830s in the southeast among migrant Krobo and Akuapem farmers began purchasing land from Akyem chiefs for oil palm production. By the 1880s, farmers had converted from oil palm into cocoa and a rapid expansion of the cocoa frontier began which has resulted in the spread of cocoa throughout the forest zone, the migration of cocoa farmers to new frontier zones, and the transaction of land between migrant farmers and landowning chiefs. The commodification of land has been associated with the expansion of migrant capitalist farmers - as Hill (1963) refers to them. Colonial rule placed land under the authority of chiefs. This empowered chiefs to sell land and negotiate concessions with foreign companies, and prevented other indigenes from selling land or speculating in land. Chiefs declared all uncultivated lands as belonging to their stools and set about alienating this land to migrants. In many instances, chiefs gave land to migrants on favourable terms when the frontiers began to open up, to attract migrants to establish the area as a cocoa growing district. When many migrant farmers were attracted to the area land prices began to rise and chiefs extracted increasing revenues from the migrants as it acquired a scarcity value. In many instances, land was given to migrants on variants of sharecropping arrangements. A common arrangement was for tenants to give chiefs or landowners a portion of the plantation they created as “payment” for their rights to the remainder, which was recognised as the property of the tenant. Sharecropping has enabled chiefs and other landowners to become owners of cocoa plantations and to expand the areas of plantations they own, by claiming ownership of land worked by migrant labour.

The exhaustion of the frontier has undermined the ability of chiefs to realise revenues from land. However, with the decline of new frontier areas of uncultivated land, chiefs have sought to reinvent the tenure forms under which land was released to migrants and gain access to new revenues and new controls over land. Boni (2006; 2005) records that in the Sefwi Wiawso area chiefs have attempted to revise tenure norms. While tenure norms have changed considerably in different periods, chiefs have attempted to make recent alterations in land contracts made in recent times (when land has become scarce) to apply to all contracts retrospectively. The changes introduced have undermined the rights of migrants to land. These include claims that tenants do not enjoy uninterrupted use of land, but only a lease for a specified number of years, which is to be determined by the Traditional Council. Annual payments are subject to revision by chiefs. Farmers, who acquired their land on a sharecropping contract in which they gave chiefs one third of the cocoa plantation they created in exchange for ownership rights of the remaining two thirds of plantation, now find these rights eroded. In 1986, chiefs in Sefwi began to register tenant’s farms. Migrant farmers regarded this as a strategy to extract more monetary payments from
them and resisted the process. They feared their lands would be expropriated from them. The Sefwi chiefs then mobilised the local population to dispossess the migrants who were now branded as illegally occupying the land. Widespread violence ensued (Boni, 2005; 2006).

The alienation of land to migrants, and use of migrant labour in the accumulation of plantations by the wealthy creates land shortage for indigenous commoners, particularly for the youth who have not yet established claims to land. The youth frequently question the sale of land by chiefs as selling their birthright, and see the influx of migrants as worsening their plight. The chiefs can exploit this situation to their benefit, by portraying migrants as usurping rights given to them, expanding their holdings beyond what was allocated to them, and assuming ownership of land that was never alienated to them. The chiefs can mobilise youth against the migrants, in their struggle to increase political control over the land and redefine tenure arrangements in their interest. Faced with increasing tension, the migrants are forced to submit or move away from the area (Boni, 2005; 2006; Amanor, 2005; 2006).

In the western Côte d’Ivoire, Chauveau (2005; 2006) analyses similar problem in frontier areas which have been settled by large numbers of migrants for cocoa and coffee production. These settlers originated mainly from the Baule region and from Burkina Faso. The migrants were originally welcomed by local chiefs and headman and given land under the system of the tutorat (guardianship/clientship) in which in return for land the migrant performs a series of social and economic obligations for the tutor. Initially, migrants were favourably regarded by the indigenous chiefs since they brought the promise of development to the area. Migration to the frontier areas were actively promoted by the government, since the expansion of export crops and their sale on the international market realised much revenue for the state to finance its modes of accumulation and its support base. The early migrants contained a large number of prosperous Baule farmers, who constituted a powerful political support base for the ruling party. Thus, government encouraged migration to the forest frontiers and provided those frontier areas that accepted migrants and encouraged export crop production with amenities and infrastructure development. However, the rapid expansion of the frontier was to lead to increasing land shortage, particularly for the new generation of young farmers. The youth have frequently seen the plight as arising from the influx of migrants, and these ethnic tensions have been exploited by political interests. These conflicts have been exacerbated by economic recession. The decline of the politically dominant Baule cocoa farmers under economic pressures, and the emergence of the politically weak Burkinabe farmers as the main force able to produce cocoa under economic crisis and declining returns, has fermented these conflicts along ethnic and xenophobic lines.

Ethnic conflicts over land have also festered around the Rural Land Plans (Plan Foncier Rural) in Côte d’Ivoire. The Rural Land Plans aim to contribute towards the security of customary land rights by topographically mapping all identified recognised land rights and creating local institutions for documenting land tenure. The main notions of rights used in the codification of Land Plans in Côte D’Ivoire were individual rights of appropriation that link a land manager with a particular plot of land, even when there are multiple of collective rights. This has frequently led to the exclusion of groups who own secondary or devolved rights in land, including migrants, women and youth (Chaveau, 2003). The implementation of Rural Land
Plans has enabled the rights in land of migrants to be challenged by those who claim to be the autochthonous settlers. This has resulted in serious conflicts between indigenous and migrant populations, in much the same way as happened in Sefwi during the 1950s when chiefs began to register lands (Boni, 2005; 2006).

Conflicts between youth, chiefs and migrants are common. Migrants open up areas, and create wealth. However, this removes land from local youth and frequently impoverishes them. The youth often perceive the migrants as contributing to their plight by taking over resources to which they should have as a birthright. Conflicts between chiefs and migrants often develop. The chiefs attempt to make increasing extractions from migrants and play the ethnic card when revenues are not forthcoming. They accuse migrants of usurping land, taking more land than that allocated to them, and of abusing the generosity of their hosts. The ethnic card is often effective because chiefs have alienated so much land to migrants, which results in large numbers of youth and women in the poorer strata becoming land hungry and aggrieved.

**Clientage and rural exploitation based on customary relations**

In many African societies, rural relations in agricultural production were historically not based on rural communal group solidarity and family relations based on reciprocal exchange among equals. Societies were often hierarchically organised. Social institutions ensured that surplus production was extracted by a privileged class or strata of society. In several areas, a ruling aristocracy would claim ownership of land. They were able to extract surplus or force cultivators to work for them through coercion. The power of coercion enabled them to construct historical claims to the land, which in the colonial period were presented as customary rights.

In Guinea, the implementation of community land rights in recent times has undermined the position of cultivators. In the Fouta Djallon area, the land was cultivated by Djallonke agriculturalists, who were conquered in the eighteenth century by invading Fulani. The Djallonke were forced to work as slave labour for the Fulani aristocrats in slave hamlets (rounde) located in valley bottoms. Although French colonialism banned slavery, it introduced forced labour and colluded with former slave owners to extract labour services for public works. The descendants of slaves who remained in the rural areas found it difficult to get access to farmland freely. They were forced to work on the land as sharecrop tenants, providing rents and labour services for their former masters. Boiro (1996) writes that it was not until 1957 with the coming to power of the Partie Democratique de Guinea (PDG) that the plight of the former slaves improved. The PDG abolished traditional chieftaincies, nationalised land, made customary ownership of land null and void, and recognised the rights of the tiller to the land they cultivated. However, the land question was not resolved in a satisfactory way and bureaucratic privilege and cumbersome land administrative procedures failed to promote transparency and clearly defined rights in land (Boiro, 1996). With the advent of the second republic, and approaches to land administration based on strengthening customary rights, land has reverted to its former status and owners, with the result that the land of many cultivators is being claimed by the former landlords and there are conflicts and insecurity about rights in land.
Even in politics that were not marked by strong hierarchical class formations, exploitation of surplus labour could be organised along other political cleavages in society. Richards (2005) argues that in the Manu River area along the Sierra Leone-Liberia border, elders used their control over land and marriage to extract labour from youth. On marriage, youth perform labour services for their wife’s father. During the colonial period, the elders and the colonial administration formed an alliance in which these institutions were adapted to exploiting youth to provide forced labour for colonial development. Forced labour of youth has prevailed into the contemporary period. Chiefs demand and organise communal labour from youth. Youth are forced into marriage so that their agricultural labour could be exploited by elders, to meet marriage prestations. Once married off, youth spend several years providing labour for their wife’s father. In interviews with former rebels and combatants from the RUF and CDF, many of them reiterated that they took up arms because they felt exploited by community elders and aggrieved. They likened their situation to that of slavery.

State led customary land initiatives
In the colonial period, the chiefs delimited the lands owned by families as family land and then declared the remaining land as community or chiefly property. Having established claims to ownership or trusteeship over uncultivated land, they set about alienating it to migrants and concessionaires. In the present, governments are playing a similar role in delineating customary land and mapping customary relations. Once customary lands are delineated, the remaining land can be transacted with outsiders and foreign investors by the state, local government, traditional authorities or an alliance between them.

In Tanzania, land administration has been devolved to Village Councils that are empowered to enact byelaws. They are responsible for working out community based land administration and ensuring that the rights of villagers are protected. In practice, powerful elements within the community are able to define and reinvent customary regulation in accordance with their interests. While government policy upholds some vague notion of customary rights it is also committed to encourage foreign investment in land. Village Councils are responsible for identifying potential areas of land within their domain that can be acquired by foreign investors. Unoccupied village lands are defined as general land. General land is pinpointed as potential land for investors (Wily, 2003). By delineating areas of current customary land holdings within Village Councils, the Land Act opens up the commodification of the commons and establishes mechanisms through which foreign investors can gain hold over common land. This in effect halts the movement of villagers into new land as population increases and more land is needed to meet the needs of the next generation. It effectively appropriates these lands from the future generations for the use of investors. Paradoxically, while there has been a growing emphasis in word in promoting community based reforms, economic liberalisation has resulted in increasing alienation of village land to foreign investors (Igoe and Brockington, 1999; Homewood et. al., 2004; Shivji, 2002; 1998). Sometimes this is carried out under the guise of joint ventures between communities and investors. Former landlords also claim their customary rights over village land, which was vested in the state in the early post-colonial period. The rural poor have found themselves squeezed between alienation of land to investors and claims of former landowners to their customary
rights over the land. The present community land administration initiatives have drastically eroded the rights of pastoral people to pasture land, and of the poorer sections of agropastoralists (Homewood et. al., 2004)

Similarly, in Mozambique, the 1997 Land Law claims to protect customary land rights. At the same time, it encourages private investors to purchase land and creates linkages through which foreign investors can purchase land from communities. The 1997 land law creates procedures by which communities can delimit and register communal land rights. Most community delimitations of land follow the boundaries under traditional chiefs (regulo) defined under colonialism, and chiefs have played a prominent role in the mapping of communal land rights. Community lands are regulated by chiefs and elders who define access to land and represent the communities. These chiefs are also responsible for negotiating land with foreign investors ((Suca, 2001; Lahiff and Scoones, 2001).

Mapping customary land and creating customary management institutions, can have the effect of delimiting the boundaries of customary land and removing the rest of land from future use by the peasantry.

Redefining customary land and export oriented growth

Strengthening customary land tenure is often an act of redefining customary tenure and eroding the rights of the poor. The concept of customary land tenure denies the existence of social differentiation, and introduces the notion that there is a customary authority, which stands up for the rights of the whole community against the state and developers. This draws on arcadian notions that romanticise an African past, in which land was vested in the chief to manage on behalf of the whole community, including the ancestors and the future generations. It also draws on the framework of chiefly trusteeship that informed colonial forms of indirect rule and association. It establishes a process of community participation and stakeholder negotiation over land in which the masses of cultivators, women and youth are noticeably absent, and the community representatives are dominated by traditional authorities and the rural elite clientele of government development agencies and NGOs.

A study of timber tenure in Ghana provides useful insights in how customary tenure can be used to undermine the rights of the rural poor. In the early colonial period, farmers had rights to timber trees on their farms. They often negotiated timber trees with pitsawyers. The pitsawyers took two thirds of the beams they processed and the farmers one third (or one third of the value). Byelaws issued by chiefs in the colonial period, show that they could only claim taxation on the wealth realised by farmers from the sale of timber trees, not ownership of the tree. During this period, lack of transportation prevented the expansion of export timber (Amanor, 1999).

It was only during the postwar period, that the necessary infrastructure was created for exploitation of timber for the export trade within the interior of the forest. The timber industry was given high priority to aid postwar reconstruction in Europe, for which large supplies of timber was required. This resulted in the expansion of concession in forest reserves and in farming areas. The expansion of concessions into off-reserve areas required a change in the tenure of ownership of trees, which would enable
concessions to be issued to timber companies by the state, without concessionaires having to negotiate every single timber tree with farmers. During the 1950s, timber tenure was reinvented and timber rights were invested in the chiefs (as part of the right of ownership of usufruct). This situation initially applied to the new frontier areas in the Western Region into which migrant cocoa farmers were moving. Chiefs in the Western Region were able to gain large revenues from the royalties on timber, and the written contracts they issued to farmers often had clauses about the ownership of timber trees. In the old cocoa districts in the Eastern and Ashanti Regions, farmers continued to control the timber trees on their farms, which they transacted with pitsawyers. During the 1950s and 1960s most of the timber originated from the newly colonised cocoa frontier districts. During the economic recession of the 1970s, the timber sector drastically declined as timber companies failed to acquire spare parts for their transport and mills. During this period, the small-scale timber sector expanded. The pitsaws were replaced by modern chainsaws, and the government and Forestry Department encouraged chainsaw production of timber to maintain supplies for the domestic market.

With the introduction of structural adjustment, the timber sector was identified by donors as one of the most promising sectors for export-oriented growth and large soft loans were made available for the rehabilitation of timber companies. This has resulted in the milling capacity exceeding the availability of the resource. With insufficient timber resources in the forest reserves and the decline of natural forested areas in the farming areas, concessions were now extended into the old farming districts and onto existing farms. This resulted in many conflicts between farmers and timber concessionaires as timber concessions carried out considerable damage to their cocoa plantations and farms without paying commensurate compensation. There were also conflicts between timber concessionaires and chainsaw operators. Within the farming areas, many of the youth earned their livelihood from chainsaw timber, particularly since it was becoming more difficult to gain access to sufficient farmland. Violent conflicts developed between youth and Forest Guards over exploitation of farm timber. To diffuse the situation the Forestry Department introduced a series of consultations with communities, to improved relations. The Forestry Department introduced an approach based on “collaborative forestry management” and created a Collaborative Forest Management Unit. However, at the numerous stakeholder consultations that were initiated, the community was largely represented by chiefs and their networks. The National Sawyers Association was not involved in policy deliberations, although they had worked actively with the Forest Department in attempting to control illegal chainsaw timber. The consultations with communities did not lead to any attempts to reform existing tenure regulations. Forestry officials argued that tenure regulations could not be changed, because they were enshrined in the constitution and based on the “traditional” rights of chiefs.

In 1994, a New Forest Policy was introduced. This made a great show of promoting collaborative forest management. However, one of the most significant clauses of the 1994 Forest Policy was to transform off-reserve forest management from local district councils to the Forestry Service. After acquiring control of the management of the off-reserve areas, one of the first acts of the Forestry Service was to introduce legislation banning chainsaw timber. The effect of this has been to criminalise the livelihood of many rural youth and the National Sawyers Association. The concession system has expanded deep into the farming landscape, and timber concessionaires
have carried out a ruthless plunder of the farming landscape. Few exploitable timber
trees now remain in the farming areas. Chainsaw timber continues to exist and to
provide much of the timber for the domestic market. It is now largely controlled by
organised crime and large business interests who can negotiate the security patrols
along the roads to the cities.

The Forestry Service continues to develop collaborative forest management. However, this is largely based on the myth that chiefs represent the community. The
community networks that form the basis of community forestry are largely associated
with the chiefs. In contrast with the rural poor, chiefs have immediate interests in the
export timber trade. They gain royalties from concessionaires, and these can be very
significant sums in timber rich areas. Many chiefs are also timber concessionaires in
the own right, or have close family connections with some timber companies, or serve
on the boards of directors. The concept of customary rights and community interests,
thus serves to draw a shroud over the differentiated economic interests in
communities, and the significant economic gains that can be made by undermining the
interests of the rural poor.

**Conclusion**
The conception of promoting community interests and customary rights, in the
contemporary policy context of opening up African economies to globalisation and
world markets, is problematic. While the communitarian approach claims to stand for
the interest of the rural poor, there is much evidence that the rights of the poor are
being eroded by the expansion of markets. The powerful, within the community,
redefine community interests to meet their own narrow interests or to assert what they
claim are historically defined rights. While the rights of tillers of the land came to the
fore in many African countries in the immediate postcolonial period, this has now
receded. The main contemporary concerns are with rights to own and sell land, and
customary rights to claim ownership over land. In some instances the cultivators of
the land are being ejected by former landlords who claim historical rights over
cultivators and their land.

While much is written about land reform in the contemporary period, there are
surprisingly few case studies documenting the plight of the rural poor, and the plight
of those who become dispossessed in Africa. There are many clever pieces of research
about the social construction of community, the re-invention of tradition and the
dynamism of custom. However, this type of research tends to focus on political elites,
rather than on cultivators. There are many examples of state projects and agribusiness
projects, going back to the 1970s, which have appropriated the lands of the poor and
of women. However, there are very few cases describing what the dispossessed do,
and the impact of land appropriation on the rural economy. There is a big assumption
in much policy-oriented research that policy alleviation programmes successfully
address poverty, and that neoliberal policies relieve poverty, despite much evidence to
the contrary. Globalisation and neoliberal policies tend to increase social
differentiation. While they do create opportunities for some middle income and
wealthy farmers, they often lead to an increasing gap between rich and poor,
increasing rural poverty for the poorer strata, and increasing unemployment. The
marginalisation and exclusions of the poor and the rise of conflicts over land can only
be understood by carrying out detailed studies into patterns of social differentiation
within communities and the impact of land policies on this. The traditions of political economy research need to be reclaimed for such studies to be carried out.

Far from being the solution to land rights, community-based approaches frequently intensify the expropriation of land and the exclusion of the poor - particularly when they are combined with export-oriented growth and economic liberalism. The definition of a customary domain externally (by the state, policy makers or researchers), tends to encourage prescriptive policies, in which rural people are expected to conform to the definitions of what constitutes the customary. The rural poor rarely participate in defining how land relations and agrarian development should be shaped in the future. The main rural participants in externally generated debates on customary tenure are traditional authorities, aspiring commercial farmers with close links with the agricultural services, and the professional and bureaucratic strata that reside in rural areas. The youth and women, shifting cultivators, peasant farmers, pastoralists and small-scale natural resource user groups are frequently excluded from these debates or given a token presence. Ultimately, the land rights of the poor will be better served by strengthening their participation in democratic decision making; and in making economic policies that bring better economic security to the rural economy, including stable livelihoods, livelihood options, employment, access to education and information, and support for associations that represent specific natural resource user groups rather than amorphous community groups. Without addressing these factors, property rights do little to provide security for the rural poor, and often undermine their access to a livelihood by strengthening the rights of others to exclude them. While the USA may have stable property rights and institutions that promote property rights, this does little to bring security to small farmers, millions of whom have been forced to abandon their livelihood and sell their lands in the recurrent farm crises in recent US history.

References


