

# CHAPTER 1

## Introduction

### *Property Regimes and Land Conflict: Seeing Institutions and Their Effects*

Arable land has long been under considerable social pressures. Control over  
 land has served as an important component of control over people.  
 (Fisiy 1992, 18)

Democracy’s prospects may lie not in the city but in the countryside.  
 Munro 2001, 311

Policy analysts, academics, and journalists point to the increasing incidence and importance of land-related conflict in sub-Saharan Africa.<sup>1</sup> After four or five post-independence decades of relative political calm in most of rural Africa, rural districts and provinces in many countries now roil with land-related tension, sometimes expressed in politically charged ways. Tension arises from land scarcities and growing competition over land access, the assertion of citizenship and ethnic claims linked to land entitlements, and, in some cases, enclosure and the growing exclusiveness of land rights.

In some countries, land-related conflict has exploded onto the national political stage. In Kenya, more than 300,000 people were displaced and some 1,500 killed in the violent conflict over land rights in the 1990s. Almost as many were affected by land-related violence in 2007 and 2008. Land-related conflict fueled a political conflagration in Côte d’Ivoire that tore the country in two in 2003, and it paralyzed attempts to reconstitute order through the electoral process. Land conflict also fueled the Mano River Basin civil wars in Liberia and Sierra Leone, war and widespread violence in the villages of the eastern Democratic Republic of Congo, and the war in Darfur, Sudan.<sup>2</sup> In Zimbabwe,

<sup>1</sup> By contrast, a 1970s view was that political conflict and mobilization are phenomena of the *urban* areas. See Wiseman 1986.

<sup>2</sup> See Autesserre 2010; Peters forthcoming; Reno 2007, 2010; Vircoulon and Liégeois 2010; Kahl 2006.

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land expropriation and reallocation has been at center of the Mugabe regime's desperate struggle to remain in power since 2000.

Land-related conflicts also find expression in ways that fail to capture international headlines. They often play out in more local and more systemic ways. In Cameroon, local political authorities expel "non-indigenous" farmers from localities so that ethnic insiders can take their land and prevent them from voting. Across the Sahel, the incidence of farmer-herder conflict has increased steadily over the past two decades. In parts of Ghana, chiefs who sell off communities' land can stoke protest against the abuse of political authority for private gain.

Africa's rising tide of land-related conflict is a phenomenon that is very poorly understood. It defies modernization theory and theories of economic development, which predicted that land politics would decrease in salience over time. Levels and patterns of land conflict do not bear any systematic correlation to rates of demographic increase, the prevalence of land scarcity, national regime type, or legal traditions imported from the colonial metropolises. Political science has just begun to notice this phenomenon, and is yet to confront the paradoxes and puzzles that it presents for existing theory and expectations. Framing some of the most striking of these puzzles helps identify questions that motivate this study.

Consider theories of state consolidation and power projection. Much discussion of land conflict conveys the impression that natural-resource disputes in Africa stem from the weakness (or absence) of state intervention in rural property relations. Jeffrey Herbst's *States and Power in Africa* (2000), for example, argues that central state authority barely penetrates rural Africa. From this vantage point, land conflict seems to lie outside the sphere of formal politics and beyond the reach of the state. Yet in many cases, this is clearly not so. Some of the most extensive episodes of violent conflict over property rights have happened in the commercial farming areas of states such as Côte d'Ivoire, Kenya, and Zimbabwe, all of which have long histories of deep state involvement in the ordering and reordering of rural property relations. Highly politicized land conflict has been central in recent political histories of some of the richest and most intensively governed regions of Africa's strongest states. What explains this apparent paradox?

Rising tides of land-related conflict also defy some basic expectations about transitions to democracy. The return to multipartism was supposed to mitigate social conflict by opening channels for peaceful dispute resolution. Yet in some countries, this very shift opened the door to the highly political and partisan expression of land grievances, culminating in extensive rural violence, as in Côte d'Ivoire, Zimbabwe, and Kenya. Why does the prospect of regime turnover sometimes heighten land-related tensions? Why does intensified electoral competition sometimes inflame land-related conflict?

In rural Africa, property itself is a paradox: its political character and evolutionary dynamics seem to defy theoretical expectations. Land conflict

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of the scale and scope that we observe today confounds basic expectations about Africa's "transition to the market." Since the mid-1980s, expert opinion has predicted that rising demographic pressure and land values would propel the gradual, bottom-up transformation of Africa's customary land rights into something more akin to private property in land. Although this expectation has held up in some cases, in others it has proved to be dead wrong. Demographic increase is sometimes a factor that contributes to violent and highly politicized conflict over land rights. More often, however, it feeds low-level tensions among and within communities, stoking struggles over authority, entitlement, and the legitimacy of the market. Why is the development of private property in land turning out to be such a deeply politicized and contested process?

These questions underscore the need for broader, more comparative, and more political theories of land tenure regimes and rural conflict. Africa's land regimes turn out to be far more varied and politicized than existing analysis has recognized. So far, however, there is no conceptual or empirical mapping of the character and contours of land-related conflict, and scholars have lacked the analytic tools needed to extract its broader implications for our understandings of African politics.

Deep and systemic connections between land politics and wider questions of interest to political scientists have gone largely unnoticed in comparative work on Africa. This is because the architecture and political character of *rural property regimes* has remained mostly invisible and untheorized in existing work.

This book aims to remedy this deficiency by advancing two core arguments. The first is that governments in Africa have created and upheld rural property institutions that create relationships of political dependency and authority, define lines of social cooperation and cleavage, and segment territory into political jurisdictions. In most places for much of the twentieth century, these arrangements have made rural Africa governable. It is in this sense that rural property regimes have been central in constituting the "political order" that is invoked in the book's title. The second core argument is that these rural land institutions vary across space (and time), and thus *account for* patterned variations in the structure and political character of land-related competition and conflict. In particular, I argue that variation in land institutions can explain where, why, and how ethnicity is salient in land conflict; whether land conflict is "bottled up" at the local level or "scales up" to national-level politics; and where and how land-related conflict finds expression in multiparty elections.

These features of land politics are the political outcomes that are the immediate focus of the analysis, but as I argue in the chapters and the Conclusion of this book, they are often mirrored in the larger or more diffuse dynamics of patronage and clientelism, civil society, ethnic mobilization, electoral mobilization, and rural rebellion and civil war. Part I of the book develops an analytic model and hypotheses that link land tenure institutions to political outcomes in the land domain. The hypotheses are laid out in Tables 3.2–3.6. In

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Parts II, III, and IV of the book, these arguments are expanded, probed, and tested via comparative case study analysis.

The analysis offers solutions to the puzzles about the projection of state power, democracy and conflict, and the evolution of property rights that I have just outlined. Scholars of state-building will see how land-related conflict develops within institutions that have been molded by the state. Patterns of conflict are as much a *result* of state-building as a reflection of the absence or failure thereof. For analysts of democracy, I show where land tenure regimes create direct institutional linkages between landholding and partisan politics (and where they do not). This generates a theory that helps account for when and where land conflict connects local constituencies to larger social coalitions, and to national-level electoral processes. The property rights analysis underscores the politically contingent character of property holding in rural Africa. This is the key to unlocking the puzzle of politicized responses to the growing commodification of land.

#### AN INSTITUTIONAL ANALYSIS OF LAND TENURE REGIMES AND THEIR POLITICAL EFFECTS

This book argues that African land tenure regimes can be understood as institutions, or complexes of institutions, that structure local political arenas and link rural populations to the state. Following much of the work in the New Institutional Economics, I count both formal and informal institutions as “institutions.” This makes it possible to transcend the dichotomy between formal-legal and customary arrangements that underlies studies of legal dualism in African land regimes.<sup>3</sup> Making visible this part of the architecture underlying state-society relations in these mostly agrarian societies undercuts the notion that modern African states are disconnected from their rural hinterlands, that rural social structure is uniform continent-wide (or unique in each locality), or that impersonal markets govern access to land.

Land tenure regimes are property regimes that define the manner and terms under which rights in land are granted, held, enforced, contested, and transferred. In all political economies, property rights lie at the confluence of the political-legal order and the economic order.<sup>4</sup> As rights, they do not exist

<sup>3</sup> Greif (2006) sees institutions as formal and informal legal/social frameworks in which activity takes place. See also North 1981, 1990; Ostrom 1990; Knight 1992; Ensminger 1997.

<sup>4</sup> As Perry Anderson pointed out (1974, 404–405, cited by Hann 1998, 46–47). A property regime, then, is the larger *system of rules* in which property rights per se are embedded: rules about classes of individuals or groups who have access to property rights; who can assign, transfer, enforce, or adjudicate rights; and the principles and procedures by which they can do so. In analyzing varieties of capitalism, Hall and Soskice (2001, 46) employ a notion of regimes as interlocking systems of complementary institutions – social, economic, political – that can structure interactions at macro, regional, and perhaps sectoral levels (or domains). Use of the term “regime” is consistent with the notion of institutional order proposed by Ostrom (1990, 50–51).

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without third-party enforcement – like property rights everywhere, they establish a *political relationship* between the claimers of rights and the enforcer of rights, which, in unitary polities, is the state.<sup>5</sup> As economic institutions, property rights are the cornerstone of relations of production: they govern the use of productive assets and the distribution of the wealth so generated. Sociological traditions find the essential nature of property in this relational aspect: property rights are *social relations* concerning the access and use of things, including the land and land-based resources that sustain livelihoods and society for most of Africa's population.<sup>6</sup> In agrarian society, where socioeconomic life is organized around the use of land, land tenure regimes constitute an institutional template for sociopolitical organization.

In the land tenure regimes that are the focus of this analysis, political and economic rules overlap and are embedded in each other. This contrasts with the formal separation of political and economic rules that appears in settings where impersonal markets govern access to productive assets, and where the liberal conception of the economy and the polity as autonomous spheres prevails. Because of this, we can conceive of land tenure regimes in these largely agrarian societies and local political arenas as *roughly isomorphic*, with the degree of correspondence between the two varying with the degree to which local populations actually depend on land access for their livelihoods.

Seeing African land tenure regimes as configurations of rules and structured relationships that are amenable to comparative institutional analysis is a major departure from theoretical precedent, and – as this analysis hopes to show – a powerful tool for reinterpreting structure and variation in African politics. Although social science is rich in studies of the sociopolitical dynamics of African land tenure regimes in particular places, we have lacked an explicit conceptual framework for describing how these land systems vary across space (and time) and how they fit into the larger institutional superstructure of national government. A general pass at the question could yield an answer that points to the “customary” nature of land regimes across most of sub-Saharan Africa – and to the important role of nontraditional authorities such as chiefs, elders, and land chiefs – in the allocation of land rights and the adjudication of disputes. Much work on this topic explores the lack of fit between customary land tenure in rural localities and statutory land law and the ways that complex situations of legal dualism encourage actors to game the system to maximize their own situational advantage. Fine-grained studies of local practice often underscore, either implicitly or explicitly, the intricacy, variety, and even bewildering

<sup>5</sup> Joireman's (2011) recent contribution to the analysis of rural property rights in Africa emphasizes this aspect of property.

<sup>6</sup> By the 2008 World Development Indicators, rural population as a share of the national population dips below half in only eight of forty-five African countries (not counting the island states). These are Gabon, Republic of Congo, South Africa, Botswana, Liberia, Cameroon, Angola, and The Gambia.

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diversity of local land regimes.<sup>7</sup> At the limit, analysts may find the very notion of land tenure rules (or land “regime”) to be oxymoronic in situations where land tenure practices are “shrouded in a dense field of competing claims and counterclaims around land rights, and embedded in complex local and ‘hidden’ histories.”<sup>8</sup>

The present analysis departs from received analysis by proposing a schematic conceptualization of African land tenure regimes. It identifies these as political-economic institutions (or institutional configurations), specifies their politically salient features, and describes how they vary. Land regimes are defined as institutional orders that encode four critical aspects of local sociopolitical structure: (1) property relations or rights, (2) authority rules, (3) citizenship rules, and (4) territorial jurisdiction. Together, these elements define the political-institutional character of different land tenure regimes and make it possible to compare and contrast land regimes across space and time.

The overarching argument is that these land tenure institutions go far in defining structure and variation in the character of local politics, government control over rural populations, and the integration of the rural areas into national political life. Evidence of these *political effects* is observable in *the forms of conflict* that arise from mounting competition over land. As land regimes vary, so too do forms of land-related conflict.<sup>9</sup>

This argument is important because land conflicts vary in ways that are of great interest to political science. Land conflicts vary

- by whether and how ethnicity and ethnic hierarchy are implicated as axes of social conflict;
- by whether and how the central state is implicated in these local resource struggles;
- according to the political scope and scale at which land-related distributive conflicts play out; and
- in how land conflicts are connected to (or disconnected from) electoral dynamics.

By explaining these variations, this book generates new ways of understanding ethnicity, the state, national political dynamics, and elections in Africa.

Chapters focus on cases of subnational-level land conflict that emerge as farmland grows scarce and rises in value in provinces, districts, or localities in Ghana, Côte d’Ivoire, Kenya, Burkina Faso, Cameroon, Rwanda, Democratic

<sup>7</sup> For example, Toulmin and Quan (2000a, 164) state that “numerous conflicting or competing rule-orders exist, characterized more often than not by ‘ambiguities, inconsistencies, gaps, conflicts, and the like.’”

<sup>8</sup> Klopp 2001, 474.

<sup>9</sup> Berry (1989, 1993), Ribot and Peluso (2003), and others have argued for more processual conceptualizations of African land regimes and of property. Here I am opting for a theoretical model that identifies similarity and variation in the structured attributes of local settings.

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Republic of Congo, Zimbabwe, and Tanzania. The array of cases spans the continent's regional divides, differences in colonial inheritance, and national variations in economic and political trajectories. This makes it possible to situate this institutional argument with respect to alternatives and rivals. The larger goal is to identify and track the effects of the state institutions that go far in organizing political space, political territoriality, and social hierarchy across the farming districts of sub-Saharan Africa.

## RESEARCH DESIGN AND CONCEPTUAL INNOVATIONS

**Seeing Institutional Effects**

To use empirical evidence to see the political effects of variation in land regimes (and test arguments about institutional cause and political effect), this study employs a research design that is the workhorse of comparative political analysis. I first develop a model for describing spatial variation in the structure and character of land tenure regimes, using subnational territories as the unit of analysis. I then test the argument that common exogenous pressures, refracted through the distinctive institutional configurations of these local land regimes, produce political effects that vary across the subnational units. The common pressure is rising competition for land.<sup>10</sup> Institutional variations, I argue, produce patterns of distributive conflict in which central states are implicated directly (or not), that play out at different jurisdictional scales (local versus national), and that cleave local society along ethnic, gender and generational, class-like, or partisan lines.

The analytic strategy of tracing comparative responses to broad socioeconomic shocks or broad changes in the macroenvironment is well established in the field of comparative politics. In the study of agrarian society, work so configured includes Barrington Moore's *Social Origins of Dictatorship and Democracy* (1966), Charles Tilly's *The Vendée* (1964), Jeffrey Paige's *Agrarian Revolution* (1975), and Robert Brenner's *Past and Present* (1982) essays on the rise of agrarian capitalism in Europe. In these studies, distinctive subnational or regional political movements – the products of distinctive regional social structures and agrarian land tenure systems – are shown to affect the course of nations. Comparing across the industrialized democracies, Peter Gourevitch (1986) famously tracked “national responses to international economic crises,” showing that the different responses to the Great Depression of the 1930s were shaped by sectoral-level institutions that structured relations between labor,

<sup>10</sup> I use the term “exogenous” to describe how these common pressures are treated in the analytic model, not to argue that, as an empirical matter, rising pressure on the land is a uniform, generic phenomenon that is unrelated to land tenure regimes. This study separates these two analytically, in order to make and test arguments about the political effects of different land tenure regimes.



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industry, and agriculture. More recent “varieties of capitalism” literatures explain variations in capitalist states’ responses to the pressures of globalization by highlighting differences in the national-level institutions that structure relations between labor, business, and the state.<sup>11</sup>

Common to these works is a logic of inquiry that follows the effects of “shocks,” broad changes or stimuli, or rising pressures as they shake up and destabilize an established political order at the national or subnational level.<sup>12</sup> Under such pressures, existing lines of cleavage or tension can become axes of political mobilization or competition. Previously settled debates or disputes are reopened, and differently positioned actors move into action to protect past gains, or to take advantage of new openings.

This study follows this logic by modeling rising competition for land as a shock that strains established property relationships and relations among land users at the grassroots level.<sup>13</sup> Critics of Malthusian theories of social conflict have argued that rising land scarcity does not explain differences in the *political expression* of land-related conflict.<sup>14</sup> I agree. Rising land scarcity does not explain why land-related tensions among farming households would be bottled up at the local level in one region, while similar tensions in another region could explode onto the national stage (e.g., in the form of land-related violence at election time). Rising scarcity does not explain why land tensions would ever find expression in ethnic conflict or in different forms of ethnic conflict, or in grievances against chiefs in one locality and against the state itself in another, or in the national electoral arena in some countries but not in others.

This study argues that these political variations occur because tensions fueled by rising competition for land are refracted through the different local institutional configurations that make up land tenure regimes. Institutional structure shapes politics, producing effects that vary across space in predictable ways. In agrarian society, land tenure institutions play a strong role in defining lines of sociopolitical tension and cleavage (and alliance), economic and political hierarchy, rules of access to the local political arena, and the stakes of politics. The argument is that these political effects are visible in *variation in the forms*

<sup>11</sup> See, for example, Hall and Soskice 2001 and Jackson and Deeg 2006, 6, 32.

<sup>12</sup> Tilly (1964) modeled “urbanization” as a kind of exogenous shock to rural political institutions. B. Moore (1966) examined the varied effects of the rise of the “commercial impulse” in agriculture. Many studies that lie at the intersection of international relations and comparative politics model the effects of “international shocks” on national equilibriums. North (1981) conceptualized technological and demographic changes as “exogenous shocks” to prevailing institutional setups.

<sup>13</sup> The claim that there is a net rise, continent-wide, in the level of land-related conflict is not necessary to my argument. This argument and research design require only that local actors perceive that competition for land is rising in a given place at a given time. Land conflict and land scarcity per se are not new phenomena in Africa, and they do not affect all regions or locales. Both can either increase or decrease over time. See Hussein, Sumberg, and Seddon 1999.

<sup>14</sup> Homer-Dixon and Blitt 1998, Peluso and Watts 2001, Kahl 2006.



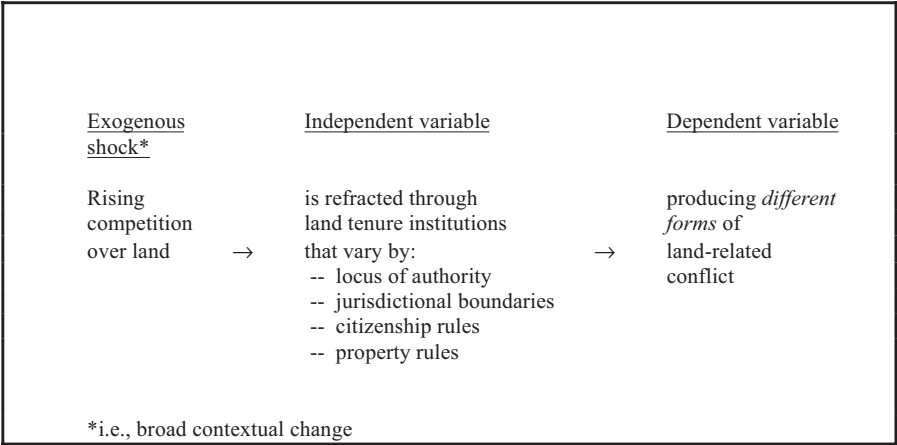


FIGURE 1.1. Structure of the Argument.

of land-related conflict. As a heuristic device, Figure 1.1 arrow-diagrams this logic in its most generic form. (The more focused, testable hypotheses explored in the case-study chapters are presented in Chapter 3.)

Land-Related Conflict as a Dependent Variable

This study innovates by considering land-related conflict a “class of phenomena” that is isomorphic to strikes and urban protests, civil wars, outbreaks of ethnic conflict, or military coups. Like a workers’ strike, land-related conflict has causes and effects that are both systematic (patterned or common across cases) and unsystematic (random, contingent). Without denying the existence of particular and contingent causes of land conflict, this study follows a very large body of social science and policy research that identifies *systematic factors* – including demographic increase, rising land values due to commercialization, and environmental changes – that contribute to increases in the intensity, scope, and frequency of overt forms of land-related conflict.

The dependent variable is the form of land-related conflict.<sup>15</sup> We are interested in the *political expression* of tensions that arise around growing competition for land. Land-related conflict can be highly localized or wide in geographic scope; targeted at ethnic insiders, ethnic outsiders, or neither; shaped or fueled by government backing of either customary rights holders or “strangers” (or neither); manipulated directly by politicians or ostensibly beyond their effective reach; and played out within the local political arena of a chieftaincy, the national political arena, or at the molecular level of the family. Some land conflict finds expression in election-time political violence, but this is rare.

<sup>15</sup> Chapter 3 discusses coding and measurement.

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Land-related conflict is usually nonviolent or else violent in small, private ways. Often it is evident in the “silent violence” of dispossessions that can lead to extreme social and economic vulnerability. This book argues that patterned variations in these land-conflict characteristics are largely explained by differences in land tenure institutions.

### Cases, Case Construction, and Use of Cases

To develop this argument, we need to conceptualize units of analysis (cases), scales of analysis, and temporal framings in ways that make it possible to observe causes and effects that operate at the subnational level. The analysis must be scaled in a way that captures subnational variation in rural property regimes. The scale must also be defined to capture some of the major environmental, demographic, economic, and agronomic forces that shape land access and use.<sup>16</sup> The appropriate units for this study are thus rural territories defined roughly at the *provincial or district level*.<sup>17</sup>

Approximately thirty-two provincial- or district-level case studies constitute the empirical base of the study. The comparative case-study method conforms to the structure of the data: cases were developed from existing analyses of land rights processes in diverse rural localities, drawn from geography, anthropology, economic history, colonial and postcolonial rural-development literatures, land-rights and natural-resource-management think tanks, agrarian studies, and political science literatures on rural politics in Africa.<sup>18</sup> Case selection was driven by (a) the availability of longitudinal information about land regimes and land-related conflict in particular contexts and (b) the goal of maximizing variation in the study variables – that is, the hypothesized independent variable (features of land tenure regimes, especially variation in the locus of authority over land allocation), its rivals (ethnic heterogeneity, state weakness, levels of modernization, land scarcity, and national-level variables such as political regime type), and the dependent variable (forms of land-related conflict). Constructing longitudinal analyses was essential, given that the research

<sup>16</sup> For example, a drought or a spike or crash in the world price of one of Africa’s export crops will not affect all farmers in a given country equally: farmers in the export-producing zone or in the drought-affected region will be affected much more directly than others.

<sup>17</sup> *Temporal framing* is also an issue, since this is an artifact of study design that is largely constructed on a case-by-case basis in order to (a) capture time periods in which we can plausibly make the case that land competition is rising and (b) assign a value to the dependent variable.

<sup>18</sup> What would the “total universe” of cases be? One way to imagine this is the following: most African countries have ten to twenty first-level administrative subdivisions (provincial-level subdivisions). (Nigeria and Uganda are outliers, with 36 and 111, respectively.) If all cases of subnational politics were defined at the provincial level, then the total number of cases in 45 countries of sub-Saharan Africa would be about 600. In the present study, many of the cases in are framed at the district (second-level administrative subdivision) or subdistrict level.