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Land Transactions and Chieftaincies in Southwestern Togo

Marco Gardini

Abstract: Land access is becoming a crucial issue in many African contexts, where groups and individuals are coping with land scarcity and increasing competition over resources. Based on fieldwork carried out in the southwestern region of Togo, this paper explores the plurality and adaptability of the forms of land access that have historically emerged from changing economic and political landscapes characterized by the rise and the decline of cocoa cultivation. Moreover, it analyses the current strategies (from manipulation of group membership and land title registration to renegotiation of previous sharecropping agreements) subjects in asymmetrical power relations use to reinforce or contest rights over land in a context of rising social tensions.

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This paper provides an overview of the forms of land transactions that have historically emerged in the southwestern regions of Togo (namely, the regions of Agou and Kpalimé). This analysis has two different aims: to show the great plurality and adaptability of local forms of land tenure, and to demonstrate the strategies developed by people in asymmetrical power relations to claim rights to land in changing economic, political and social landscapes.

In Togo, as in many African contexts, land access can be secured through different and often overlapping ways, deeply embedded in social and power relations. As Chauveau and Colin (2010: 100) have noted, “The lesson to draw is that it is illusory to try to secure land rights independently of the socio-political embeddedness of these rights, and therefore of the local issues of citizenship, governance and accountability of authorities.” In this sense, it is not possible to understand land access without considering the social and political institutions which guarantee it, in a context characterized by legal pluralism, where different authorities – both inside and outside the “state” – 1) reaffirm their legitimacy partially through the resolution of land conflicts (Benda-Beckmann 2002; Griffiths 1986; Klute et al. 2008; Bellagamba and Klute 2008) and, more importantly for the argument of this article, 2) play a crucial role in recognizing and reinforcing (or not) land rights (Lund 2011). As Ribot and Peluso (2003) argued in their “theory of access”, if property can be considered a “bundle of rights”, “access” is mediated by “bundles of powers” – namely, the different institutions and authorities that enforce rules and legitimate particular claims. As far as this aspect is concerned, during my last period of fieldwork¹ I focused on the dynamics of conflict management observable during trials held at the local chieftaincies’ courts. Trials emerged as privileged sites to 1) investigate the importance of the courts’ decisions for legitimizing or contesting different claims and 2) observe the different strategies used to reinforce particular rights over land.

Despite being confined by colonial and postcolonial legislation to be “conciliators on civil and commercial matters”, chieftaincies have managed to preserve a critical role in the resolution of conflicts related to witchcraft and land (van Rouveroy van Nieuwaal 1996, 2000; Trotha 1996), although never obtaining a crucial political position in Togo like they have in Ghana, or extracting rents from “migrants” (Berry 1989). Although in Togo “land does *not* belong to the chief”, the majority of problems connected to the

1 The cases analysed in this paper were collected during six months of fieldwork in 2009 and three months in 2010/2011 during which I attended the trials managed weekly by the chieftaincies of Agou Koumawou and Apegamé.

land are dealt with by chieftaincies because “only the elders know the limits of the fields”, as the Agou prefect himself asserted in a personal statement.

As many scholars have outlined, the so-called “traditional authorities” – far from disappearing as the central state’s authority continuously extends itself – have historically shown a great ability to renegotiate their position. Although co-opted and often created *ex novo* within administrative organs since colonial times, they often managed to take advantage of their special position in the shadow of the state, re-emerging as privileged interlocutors and widening their spheres of influence in strategic and creative ways (van Rouveroy van Nieuwaal and van Dijk 1999; Bellagamba and Klute 2008).

Land conflicts and frauds concerning land sold twice over are on the increase, as many Togolese chieftaincies can attest. Even in official speeches, conflicts over land ownership are stated to be the main cause of death after malaria and AIDS, implicitly arguing that the perceived increase in attacks of witchcraft is proportional to the increase in social tensions related to land access. Historically, the reduction of available land in Agou has been almost certainly caused by demographic pressure and by political and economic factors such as the introduction of cash crops in colonial times, the unemployment generated by the crisis in the public sector followed by structural adjustments, the registration of land titles (which exclude others from access to land), and the colonial creation of European plantations – which have occupied the most fertile lands of the region (Ahadji 1996) and which, despite now being state property, are still not accessible to the majority of previous owners.

The southwestern region of Togo is considered the most fertile area of the country. In the nineteenth century the region was involved in the palm oil economy, and at the beginning of the twentieth century it became the key region for the production of cocoa and coffee. Plantations paved the way for the settlement of migrants from the north (mainly Kabié and Nawdeba) in a region mainly populated by Ewe, who were able to avoid forced labour thanks to cash crop economies. For colonial administrations (both German and French), the “south” was the only viable part of Togo and was therefore open to investment, while the “north” was merely considered a reserve of workforce for forced labour. The “ethnic” divisions that developed in colonial periods were reinforced and exploited after independence, particularly during Eyadema’s 38-year-long military regime from 1967 to 2005 (Toulabor 1986; Piot 1999). By creating a single party system, Eyadema reversed the situation, strengthening the position of Kabié people (his “ethnic group”) in the army, administration and in key economic roles.

Moving beyond a reductionist approach that would focus only on the relations between the Ewe and Kabié groups, this paper analyses the plural-

ity of the current forms of access to land and addresses the role played by chieftaincies in securing land rights.

After a brief outline of the theoretical framework underlying the research, particular attention will be paid to the historicity of the agreements concerning cash crop economies known as *dibi-madibi* (or *deme*) and *nana*, which involved a broader set of social and power relations not reducible only to “ethnic” divisions, but which also concern gender, class and generational differentiations. In analysing the two cases, I will discuss some of the strategies used locally to oppose or confirm, and criticize or reinforce, particular land rights. These strategies will show how subjects in asymmetrical power positions utilize different sources of legitimacy to reinforce their claims and how chieftaincies, in supporting particular claims, take into account a wider political and social context.

Land and “Ownership”

Many scholars have stressed that land access in Africa is both deeply embedded in the social and political relations that people are able to activate and strongly related to issues concerning power relations, membership and the production and reproduction of histories (Berry 1992, 2002; Shipton and Goheen 1992). Land issues are central to the understanding of both the local politics of belonging (Kuba and Lentz 2006), and the emergence of “autochthony” as a central theme in contemporary political struggles in many African states (Ceuppens and Geschiere 2005; Geschiere and Jackson 2006).

Many scholars, following Gluckman,² have found that African forms of land tenure cannot be reduced to the dichotomy between individualistic and communal ownership. Land tenure is characterized by complex “bundles of rights”, through which different subjects may claim different rights on the same parcel. These “bundles of rights” depend largely on the social and political institutions that guarantee access to land and on the locally negotiated criteria of inclusion and exclusion (Berry 1989, 2002; Colin, Le Meur and Léonard 2009; Chauveau 2006; Chauveau and Colin 2010; Lavigne Delville et al. 2002; Kuba and Lentz 2006).

Classic ethnographies have stressed how land access was strictly built around what was thought to be the most pervasive of “social structures” in Africa – namely, “kinship”. These approaches, and all the concepts associated with them (lineage, domestic groups, unilineal descent, etc.), have been criticized by a number of scholars who, following Bourdieu (1972), have

2 “Ownership cannot be absolute, for the critical thing about property is the role that it plays in a nexus of specific relationships” (Gluckman 1965: 45).

demonstrated how kinship itself, rather than being a fixed (and atemporal) set of normative principles structuring societies, is subject to processes of renegotiation and is strategically used by different subjects for different claims,³ especially under conditions of increasing competition over material and symbolic resources (Guyer 1981; Greene 1996). Moreover, in the case of southwestern Togo (but more generally in many parts of West Africa), patrilineal descent has not historically represented the only guiding principle of land access. Migrants settled in the Agou and Kpalimé regions, establishing patron–client relations with “autochthonous” landowners who gave them land. Similar to the institution of *tutorat* in Côte d’Ivoire described by Chauveau (2006, 2009), these agreements for the transfer of land rights – which, in principle, should pass down generation to generation but have often instead been strongly renegotiated in changing economic scenarios – represented “an agrarian institutional device for regulating relationships between first-comers and late-comers” (Chauveau and Colin 2010: 87).

Despite the radical changes in the forms of access to land, colonial administrations systematically denied the historicity of African land tenure regimes and considered them chaotic and unproductive. Moreover, colonial discourses denied that African subjects had any idea of property rights, believing that for Africans, land was uncontested and inalienable. Opposing this romantic idea, Amanor (2006) has shown that after 1830 the land involved in the production of palm oil was bought and sold in certain areas of the Gold Coast. This had already been noted by the German missionary Spieth (1906) in the late nineteenth century with regard to the Ewe in Togoland.

Research on the subject has increasingly shown the fundamental historical impact of cash crops on local forms of land access, labour and migrations (Hill 1963; Sutton 1983), as well as the impact of state projects on the improvement of land privatization through the registration of property titles (Colin, Le Meur and Léonard 2009; Chauveau 2009; Lavigne Delville et al. 2002; Lavigne Delville 1998). Understanding how both processes have had differing effects on men and women (Gray and Kevane 1999;

3 An example of this is the institution of *kolonyigba* (land of the vagina), which introduces a principle of matrilineality in a system usually described as “patrilineal” by both the locals and classic ethnographies. *Kolonyigba* provides a man with the opportunity to work a parcel of land belonging to his wife’s family. The sons can also inherit the parcel. In 2010, a member of the Agou Koumawou chieftaincy explained it to me this way: “Cette pratique de donner la fille en mariage accompagnée de terre à commencé pendant la période coloniale et se fait pour la simple raison que dans certaines familles, le problème de terre se pose surtout du côté du garçon. Donc pour cela, il faut donner le moyen à l’homme de pouvoir nourrir sa femme à partir de cette terre.”

Yngstrome 2002), on elders and young people, and on migrants and “autochthonous” people (Boni 2006; Chauveau 2006; Ubink and Amanor 2008) is crucial.

As has been noted, rather than being the solution to conflict, the registration of land titles is often one of its main causes, representing a benefit only for those who are better economically positioned and encouraging the consequent marginalization of others, who are excluded from land access (Platteau 1996, Berry 2009). This does not mean that the so-called “traditional forms of land access” are by nature balanced and harmonious. In fact, despite the “negotiability” and the dynamism of local forms of land access, scholars remind us that “not everything is negotiable” (Ubink and Amanor 2008; Kuba and Lentz 2006). The ability to “negotiate” depends considerably on the social position of the subjects in the asymmetrical structures of power embedded in membership, gender, generations and class relationships (Ubink and Amanor 2008), as well as on the interest of local authorities (national as well as “traditional”) in supporting certain claims but not others (Ribot and Peluso 2003; Berry 2009; Lund 2011).

Ɖεmε (producing and sharing) and *Nana* (to donate)

The colonial period in Togo was characterized by the large mobilization of Ewe, Kabié and Akposso seasonal workers who migrated to the nearby Gold Coast, in particular to areas involved in the cocoa economy (Austin 1988; Lawrance 2003; Hill 1963; Amanor 2006, Ubink and Amanor 2008). This process allowed those who came back to Togo every year to pay “head taxes” (capitation) imposed by German and French administrations, while for those who settled permanently on the Gold Coast, where the taxation regime was different, it was possible to simply avoid capitation altogether. In addition, this movement of people contributed to the independent introduction of cocoa⁴ and coffee to the regions of Kpalimé, Agou, Litime and Danyi. Cash crop plantations in turn created favourable conditions for the

4 According to historical sources on the German colonial period, the Kpalimé/Agou region brought in the highest revenue from taxes: 98% of the population paid six marks in order to avoid twelve days of forced labor (Gayibor 1997: 31). This fact is explainable by the permeability of the border with the Gold Coast, where many Ewe would work as seasonal workers on cocoa plantations. Moreover, cocoa smuggling (from the Gold Coast to Togo) became one of the more profitable activities for Ewe. Indeed, a considerable portion of the cocoa exported by Togo under the colonial period was not produced in Togo, but came illicitly from the Gold Coast (Nugent 2002).

settlement of migrants from the north of Togo (Quesnel and Vimard 1988; Gayibor 1997), which was strongly encouraged by colonial administrations.

The Ewe migrants returning from the Gold Coast not only contributed to the introduction of cocoa to the southwestern region of Togo but also replicated, along with northern migrants, those agreements that had governed the relations between them and their landowners on the Gold Coast (see Lentz 2006: 4). These agreements, locally called *dibi-madibi* (an Akan expression meaning: I eat, you eat) or *deme* (in Ewe, producing and sharing), indeed represent a local version of those contracts known as *abusa* and *abunu* that were typical of the cocoa economy of the Gold Coast and are well known in the literature on the subject (Hill 1963; Sutton 1983; Lawrance 2003).

Amanor (2006: 151) identifies various forms of *abusa*. The first one provided tenants who undertook the creation of new cocoa plantations on forest land on behalf of a landlord with the opportunity to become the owners of one-third of the plantation after it became fully bearing. A second variant provided that the tenant would receive two-thirds of the harvest if he continued to work the whole plantation. “The third variant was the *abusa* labourer system, in which a caretaker worked on an already established plantation and was remunerated for the labour in weeding and harvesting with one-third of the crop (Amanor 2006: 151)”, while in the *abunu* agreement the harvest was halved.

Given the longevity of cocoa plantations, along with the possibility for migrants to both cultivate food crops and pass the acquired land rights on to their children, it is clear that some of these agreements involved a permanent settlement of migrants and often implied a “permanent” transfer of rights from owners to immigrants, in particular in line with the first form of *abusa* mentioned above. As the authors point out, since these forms of land access were closely linked to the specific economic context of the rising cocoa economy, when land became scarce these agreements started to be renegotiated by landowners, who tried to regain possession of the property. As recalled by Lavigne Delville (Lavigne Delville et al. 2002), such agreements are now also extended to the cultivation of cassava, bananas (*abunu*) and sweet corn (*abusa*), and no longer concern only migrants and owners – they also tend to govern the relations between elders and young people.

What has been said about the *abunu* and *abusa* systems in the aforementioned studies also holds true for the *dibi-madibi* or *deme*, which illustrate how “traditional” forms of access to land were not “static” as described by colonial discourses. Following the expansion of the “cocoa frontier” in the southwestern region of Togo during the colonial period, these agreements gave many migrants the opportunity to settle there from the 1930s onwards. This process involved mainly Kabié and Nawdeba migrants who had already

been transferred to the central and southern regions of the country by colonial policies of forced migration in the 1920s (Piot 1999), but it also affected migrants who moved there autonomously, attracted by the prosperous cocoa and coffee economies of the southwestern regions.

The macro-category of *dibi-madibi* included both the *abusa* and *abunu* agreements and, like them, showed a large degree of internal variability and historical adaptability (Akibode et al. 1989). Therefore the definitions of *dibi* found locally or in the literature are numerous. For example, according to Ahadji (1996: 441), the *dibi* system guaranteed two-thirds of the harvest (coffee, cocoa or palm) to the tenants, as in second variant of *abusa* discussed above. This practice corresponds with the definition I found in the Agou region, but it is not the only way the term is defined. For example, several inhabitants of the plateau of Danyi, which was the centre of coffee production during the French colonial period, reported that crop-sharing attributed two-thirds of the harvest to the owner, not to the tenant (see the third variant of *abusa* above). At the same time, in both areas I found older agreements, also called *dibi-madibi*, which involved the sharing of trees planted by the migrant (following a tenant–owner ratio of 1:2) but no sharing of the harvest, as in the first variant of *abusa*. Gu-Konu (1983: 290–291) maintains that the *dibi* sharing was comprised of two equal parts and explains that although in principle the sharing was in regards to the cocoa plants, it was in fact the *land* that was divided, due to the long life of the trees.

The diversity of definitions reflects the historical adaptability of these forms to land access. As long as land was available, the *dibi* system, in terms of trees/land division, represented for the owners the most effective way to recruit cheap labour for new cocoa plantations and to extend their network of dependents. For migrants, the system guaranteed the possibility of having land and paying colonial taxes. Over time, the reduction of available land and the decrease in the price of cocoa in global markets have gradually modified the *dibi* system in terms of sharecropping or fixed rent, improved seasonal employment and, more recently, the hiring of labour on a daily basis (Akibode et al. 1989; Quesnel and Vimard 1988).

It has to be stressed that the cocoa economy not only contributed to changing the forms of access to land but also involved changes in social relations in general. Indeed, the cocoa economy produced different effects for “autochthonous” people vs. migrants, for elders vs. young people, and for men vs. women. Many Ewe were able to reinforce their rights to parcels of lineage land (often at the expense of other lineage members) and to send their children to missionary schools, giving them the possibility of upward mobility from which women and migrants were generally excluded. Colonial stereotypes reflected this social differentiation: Kabié were considered “nat-

urally given” to agricultural activities, while Ewe were regarded as more civilized, but “less strong” and “lazier”. But it is important to add that the *dibi* system not only regulated the relationship between Ewe and migrants, but also gave many young Ewe the opportunity to circumvent the power structures of their descendant groups, working simultaneously on different pieces of land and earning enough money to buy land of their own.

The impact of the cash crop economy was more ambiguous for women, who, despite being normally excluded from land inheritance, were able to manage a certain degree of economic autonomy thanks to their trade activities (Gray and Kevane 1999, Berry 1989). In general, however, they did not profit as much as men from the cocoa economy (although they often asked their husbands for remuneration for working on their plantations, Quesnel and Vimard 1988: 424), and the amount they worked on food-crop production increased considerably when they lacked the help of husbands and children (Bukh 1979). At the same time, the upward mobility of men who tried to emancipate themselves from agricultural activities gave some women the possibility of reinforcing the rights to their land. During my fieldwork I met a considerable number of old women owners who had inherited their fields from their fathers⁵ and, during trials, chieftaincies had guaranteed their rights despite attempting to exclude them to the benefit of other members of their lineage. Moreover, the cocoa economy paved the way for smuggling (Nugent 2002), especially in border regions like Agou. Many of the old women I interviewed remember how after World War II they had earned a lot by adding cocoa to the other commodities they traded in the markets along the border.

Nowadays, however, the trend is to avoid new *dibi* agreements in order to deter the permanent settlement of “newcomers”. Moreover, old rights acquired through the *dibi* system are now widely open to negotiation and are fiercely criticized by those who, having failed in their “urbanization” projects or having lost their jobs due to “structural adjustments”, return to the village and claim their rights to “the lands of their ancestors”, which for many decades have been occupied by groups of “non-autochthonous”⁶

5 There is also historical evidence of this process; in Dossier 216 (ZAPA) Cercle de Klouto in the Lomé Colonial Archive there is an inheritance certificate written in 1958 in which Paul Ayko Agbemabiase, contrary to Ewe custom, recognized equal inheritance rights to his land for all his children regardless of gender. However, this tendency seems to be specific to the Agou and Kpalimé regions (ex-Klouto). Many (both men and women) attested that conditions for women were better here than in other regions of Togo.

6 For a similar process in Côte d’Ivoire, see Chauveau 2006. However, in the Agou prefecture it seems that this process has not assumed, for the moment, the same relevance as it has in other Togolese contexts, probably because the concentration

people or by other Ewe not belonging to their lineage. Many (in particular young people or Ewe migrants in Europe) want to re-obtain access to land not to cultivate it, but rather to impose a rent on “non-autochthonous” that can be invested in other, more profitable activities (for example, buying a car or a motorbike to use as a taxi).

Since the transfer of land rights to “outsiders” became more problematic, the so-called *nana*, which in Ewe means “to donate”, has become extremely popular. Involving both men and women (the *dibi* was in general an agreement among men) more than representing a specific “contract”, this agreement, like the *dibi*, is a set of different strategies to transfer rights to land in exchange for labour.

In the first form of *nana*, someone with a considerable amount of land offers another individual who does not belong to the lineage of the “owner” (often a woman, a migrant or a young person) the chance to cultivate a particular parcel, on condition of planting food crops only. This agreement seems to fall within the logic of the “gift” (hence the name), which enhances the prestige of the owner and puts the tenant in debt throughout his time on the parcel. Although not formally required to do so, the tenant offers occasional gifts (often yams or cassava flour) and his labour force to the owner in recognition of his status. It is clear that the prohibition of planting trees indicates that there is no official transfer of land, but only temporary permission to cultivate it.

However, this agreement does not deter the long-term settlement of the tenant and, over time, the terms of the agreement become more and more blurred or shift into new phases of negotiation, especially if the person who “receives” the land starts planting trees, building houses and cleverly exploits his own position in wider social networks, or, as often happens nowadays, if the owner transforms the *nana* into a rent.⁷

In a second variant of *nana*, a landowner who wants to start a palm plantation (now much more rentable than cocoa) gives someone a parcel of land to cultivate corn, yams or cassava. In return, the tenant will look after the palm trees. This contract, unlike the *dibi* system or the first variant of

of “migrants” is not as high and young people keep trying to “emancipate” themselves from agricultural activities through urbanization or migration. In spite of this, during the anti-regime upheavals in the 1990s, many cases of violence against Kabié settlements, quickly repressed by the army, have been attested in the Klouto region. Nevertheless, as we will see, the crisis in Côte d’Ivoire is used during trials as an example in order to reinforce or contest these claims.

7 See Bishop (2002) for a description of land tenure regimes in the Maritime region of Togo, where, given the high population density, rent is now one of the main forms of access to land for “migrants”.

nana, does not allow for a long-term settlement of the tenant; in fact, when the palm trees grow, they cast too much shade, hindering the growth of other crops and effectively forcing the tenant to leave.

It is clear from the comparison between the *nana* and the *dibi* systems that the fundamental aspect that has historically resulted in settlement and transfer (though always renegotiable) of land rights revolves around whether or not the tenant is allowed to plant trees (semi-permanent crops) on the land (Bishop 2002). Many of the conflicts I followed arose from the attempt to steal land through the cultivation of palms and teak.

It is also clear that the various forms of agreement known as *deme* or *nana*, rather than being a given and immutable typology, are more easily understandable if placed on a continuum between a temporary transfer of rights to one of longer duration, up to an integral transfer of “property” rights.

Given the orality of these agreements and the absence of cadastral documents, the only authorities able to manage these issues are chieftaincies. Yet, these in turn exploit their role in conflict management to reinforce their legitimacy, which is often contested, mainly (but not only) by young people, who harshly criticize the support of the chiefs for Eyadema’s regime. As the following examples will show, these agreements depend largely on the ability of individuals to maintain and strengthen positive social relations with the local chieftaincies, who, despite not being involved at the moment of the stipulation of the agreement, become crucial in its renegotiation.

Producing Documents, Managing Conflicts

Given the precarious and vulnerable conditions created by the current global situation, many are reluctant to sell portions of their land. It needs to be added that the right to sell a parcel of “family land” is often contested by other members of the lineage, and fraud is commonplace.

The fact remains that land is often bought and sold. Rather frequently, people choose to invest their savings in the purchase of land in order to become the sole owners of the property, thus avoiding the risk that other family members will claim their rights to the parcel. At the same time, selling is often the only way to guarantee an inheritance for daughters who might be outnumbered by the male members of the lineage. Togo’s legislation, which clearly states that inheritance must be equally divided, regardless of gender, differs from the Ewe patrilineal forms of inheritance which, in principle, leave the land only to the male members of the lineage.⁸ This leaves considerable freedom to each court in deciding on the range of possibilities

8 See footnote 3 for exceptions.

for women as landowners. In general, when women are the owners of their fields, they are such either by virtue of an acquisition derived from their commercial activities or because an agreement among siblings has been reached. However, the main forms of land access for women are achieved through *nana* agreements or the *kolonyigba* system (see footnote 3), or depend on their role as daughters or wives. But it is also important to note that profits from commercial enterprises allow some women to earn enough to buy sizeable pieces of land.

Kossiwa, a 35-year-old woman from an Agou plantation I interviewed in 2011, started her commercial activities buying textiles in Lomé to sell in Agou markets. She gradually expanded her business by buying and reselling a wide range of imported goods. After about ten years she rented a shop in her village, which quickly became the most well-stocked store within a radius of several kilometres. She got married, but left her husband because, as she recalls, he “sponged off” her. Her new “husband” (in fact, a person who some in the village say has been “bewitched” by her because he is extremely “submissive”) is employed in the boutique, and she continues to travel between Lomé and Agou to buy imported goods. Currently she is trying to further expand her business through the sale of Chinese mobile phones. Recently, Kossiwa invested in a vast portion of land that she has converted into a teak plantation. To ensure the purchase, she followed bureaucratic procedures (which she recalls as being very expensive) and she also asked the local chieftaincy to serve as guarantor of the transaction.

Kossiwa has tried to secure her rights, acquired thanks to a privileged economic position that few women have, through different sources of legitimacy (“traditional” authorities, the legal framework of the bureaucratic procedures of the state) and practices (planting trees, production of documents). In spite of this, she is not untroubled: She fears the “envy” of others and possible attacks (or accusations) of witchcraft.

It should be emphasized that the bureaucratic procedures for land transactions are extremely expensive and are affordable only for those in a good economic position such as Togolese migrants based in Europe or in the United States, members of the economic and political elite, and civil servants. However, the fact that the buyer and the seller follow the “formal” transactional procedures does not guarantee that the heirs of the buyer will do so after his/her death. Families tend to maintain the land undivided to avoid further fragmentation, and over time a number of descendants will claim rights to it. In this sense, “private property” tends to become “family property”, demonstrating that formal procedures do not necessarily lead to an individualization of property rights. As Colin and Ayouz (2006: 405)

remarked, “the commoditization of ownership rights is thus not the final stage in a linear process.”

In general, however, those who cannot afford to follow formal procedures (or those, like Kossiwa, who want to ensure their ownership) tend to rely directly on local chieftaincies as guarantors of the transaction. In “traditional” procedures, the purchase is guaranteed by the signatures of buyer, sellers and witnesses written on the cardboard packaging of an imported bottle of London Gin brought by the purchaser to the landowner at the time of the transaction. These boxes become “documents” that can be used as proof of purchase for the chieftaincy in the case of a dispute. The choice of an unopened bottle of gin is not accidental. Imported alcohol has been a prestigious item for centuries, being one of the goods exchanged for slaves. It has historically assumed a central role in social etiquette, in approaching a “superior” or in marriage negotiations. Imported alcohol is also used as a currency for paying “fines” when a trial regulated by the chieftaincy is lost. As an item demonstrating respect for “traditional” authority, the bottle of gin has also become a “document” that establishes a transaction between the parties.

The so-called “traditional” procedures in fact mimic the formal procedures of the state, through the production of documents of an ambiguous legal status. Chieftaincies produce a number of “documents” (“receipts”, “acts of sale,” “registers of trials”, “summons” and “judgements”), whose legal value, although not officially recognized by the state, is of vital importance to the extent that these local authorities exercise a certain degree of monopolization in land affairs and they are emerging as crucial in reinforcing or denying particular rights.

Let us consider for instance a second case: John was born in 1960 in Agou. His father was a Yoruba migrant from Nigeria who settled in Agou in the 1950s thanks to a *dibi-madibi* agreement he established with an Ewe landowner, a descendant of the “founder of the village”. By virtue of the agreement he became the owner of one-third of the cocoa trees (thus, implicitly, of the land), which he had planted for the landowner.

John has spent his entire life working on the land he inherited from his father, converting a large part of the cocoa plantation into palm trees. He lives there with his wife, his oldest son and his three grandchildren. During my stay in 2009, John was involved in a trial against the grandchildren (André and Etienne) of the Ewe landowner who had given the land to his father.

Tensions began in 2007, when, after losing his job in Lomé, Etienne decided to return to Agou with his wife and children and asked his older brother, André, for a parcel of the family land to cultivate. André advised him to reclaim the land from John, who offered Etienne a *nana* contract.

Etienne was furious (“It was my family’s land. My grandfather gave it to John’s father and now he is offering it in *nana* to me?!”), and they started a fight. After that, Etienne took John to the village chief’s court. On the day of the trial, Etienne, accompanied by his brother and four witnesses belonging to his lineage, was rather confident that the quarrel would be resolved in his favour, since one of his relatives (the *duto*, “father of the village”) was a member of the court. Etienne asked John to renounce any right to the land and go “back to Nigeria” (where John had never set foot before), or at least to cultivate only a small piece of land, providing Etienne with a third of the crop. On his behalf, one of the witnesses evoked the story of the village’s foundation in order to demonstrate that the land had “always” belonged to their family. Yet the court did not seem to be particularly receptive to the argument: The narrative of the founding of the village was frequently interrupted and the chief of the royal quarter, visibly annoyed, blurted out: “Etsra (the founder of the village) did not till all the fields in Koumawou. If this were true, all the villagers should ask your family for permission to cultivate.”

The version of history given by Etienne’s witness is not considered false: I heard the same story reported by the chief of the royal quarter himself. Nonetheless, it is considered simplistic because it takes no account of the settlement of other households not linked to Etsra on the territory. Moreover, the chief of the village himself is not a descendant of Etsra, but a descendant of a chief appointed by colonial ancestors. In this case, the attempt to use history as a legitimating principle of access to land not only did not achieve the desired effect, but also appeared clearly instrumental to some members of the court.

Another of Etienne’s witnesses then tried to evoke a “state law” (not specified further) which he claims states that acquiring land in Togo requires “government permission”, referring to the fact that no “formal bureaucratic procedures” were followed for this transaction. During his speech he made an explicit reference to the politics of belonging of Côte d’Ivoire, which he considered not only legitimate, but also the only solution to what he considered a “northern conspiracy” seeking to remove the best land from “southern populations”.

The witness was trying to rely on the shared feeling of having been the subject of political domination by “the north” since the coup by Eyadema. It is clear that the attempt was to present the case as an example of political conflict on a larger scale in the hope that the widespread anti-RPT⁹ feelings

9 The RPT (Rassemblement du Peuple Togolais) was founded by Eyadema in 1969 in Kpalimé and for many decades has been Togo’s only party.

secretly shared by many members of the court could influence the decision. A member of the court objected, however, that the man was going off topic: John was Yoruba, not Kabié, and had certainly not enjoyed the favour of the regime. Moreover, he added, Kabié people had also been victims of Eyadema's regime.

At this point, the *duto*, noting that many members of the court seemed inclined to support John, asked him if there were any witnesses of the agreement between his father and Etienne's grandfather who could ensure that the agreement would allow the actual transfer of ownership. John, embarrassed, replied that the witnesses were dead. Then Etienne caught the implicit suggestion of the *duto* and played his best card: Since the *dibi* agreement concerned the cocoa trees, and since John had converted the fields into a palm plantation, weeding out the cocoa, John had no more right to the land. The argument was strong, and John was in trouble. Confused as he was, he said that his father had shown him a "document" signed by him and Etienne's grandfather proving the change of ownership, and promised he would try to find it at home. The court decided to postpone the trial until the following week.

The next day, John made an informal visit to the house of another member of the royal family (K.) who had been his friend since childhood and was also, incidentally, my host. John told his friend that he "had not found the document" and he feared being expelled from the land where he was born.

K. brought both of us to visit the chief of the royal family and the three of them began to discuss the best way to "save John". They concluded that "the surest way to ensure that the will of the old contract will be respected is to correct John's loss of the document" – namely, by producing a fake one.

From this point of view, the production of documents by John is no different from the production of stories by Etienne: Both reconstruct a past in pursuit of specific objectives, both are fictitious and restrictive, both need to be socially believable to be effective, and both are configured as legitimate interpretations of the will of the "ancestors".

Even though there are deep similarities between the two strategies, they are not homologous: The "document", being "a fetish of modernity", evoking the bureaucratic procedures of the state, seems to have greater legitimacy than the oral storytelling, a legitimacy which is indicative of the impact of the colonial and postcolonial state in changing the symbolic and practical frameworks upon which the exercise of authority, legitimacy and the construction of (legal) evidence are based, even in the so-called "traditional courts".

John was able to neither mobilize a strong network of social relations (like Etienne was) nor use stories of “first arrival” or exploit political narratives of “oppression” to his advantage. Therefore, the production of a “document” and the request for K.’s help were the only ways to redress his position. On the day of the second session, John presented the document to the court, which allowed it into evidence, despite Etienne’s protests. Nonetheless, the court could not reach an agreement. The *duto* and another person took Etienne’s side, while the other members of the court sided with John. After two hours, the court announced it was postponing its decision until the following week.

During that week there was an intense exchange of meetings, mediations and insults between the members of the chieftaincy. The topic began to be debated throughout the village, bringing out the internal divisions within the so-called “autochthonous”. Some Ewe with similar problems instrumentalized the case to renew their accusations against not only Kabié but also other Ewe “who cultivate land not belonging to their lineages”. Others believed that anyone who had been working on the land for years, even if not Ewe, could not be driven away by “lazy people (*keviato*) who have always lived in Lomé and after no longer being able to eat there, come back to eat in the village”, referring critically to those who perhaps had never financially supported their relatives in the village and had come back years later to reclaim land as “family members”. The atmosphere became heated, and the issue reached the attention of the prefect, who requested that the village chief resolve the conflict as equitably as possible.

After a long mediation, the court took a decision: John was declared the exclusive owner of the land he had inherited from his father, but he would still have to hand over a part (not a particularly large one, though) and a certain sum of money to Etienne, who had to bear the cost of the trial.

In 2011, during subsequent fieldwork in Agou, I became aware of the fact that between Etienne and John a set of charges and countercharges of witchcraft had followed. Despite their attempts to manage the social tensions produced by the reduction of available land, believing that chieftaincies can bring about a complete “conflict resolution” is a rather optimistic idea.

But these examples show 1) the crucial importance for women, young people and migrants of building good relations with local chieftaincies in order to guarantee their rights, and 2) the need for chieftaincies to take into account a wider social and political context in order to guarantee their own legitimacy.

Many cases show how chieftaincies in Togo do not necessarily tend to favour “autochthonous” people over “migrants”. Some chiefs report that the reasons for this depend largely on the fact that many Kabié and Nawdeba

have relatives in the army or in the ruling party. Piot (1999) reported that 80 per cent of the armed forces is composed of soldiers of Kabié origin and a great part of them come from Eyadema's home village. In this sense, the expulsion of a "migrant" can be dangerous for chiefs themselves, who pay considerable attention to the wider political landscape on which their position often depends. Moreover, many "migrants" were born in the south (and therefore are not necessarily regarded as "newcomers") and are able to maintain and consolidate important social networks (friendship, marriage, business) with the Ewe.

Moreover, the social field of the so-called "autochthonous" people is itself far from being homogeneous, divided as it is by underlying tensions, personal rancour, rumoured or explicit accusations of witchcraft, and accumulated hatreds. All these reasons – and the fact that land conflicts are characterized by the deep interconnection of different matters (such as accusations of witchcraft, adultery, the national political landscape, and tensions between "ethnic" groups, not to mention tensions between families in competition for specific positions within the chieftaincy) – make the outcome of any land conflict highly unpredictable, while the specificity of each case does not allow for generalization following a single line of social differentiation.

Conclusion

The cases discussed in this article are emblematic of the plurality of strategies historically activated to obtain access to land (or labour) in a context characterized by the rise and fall of the cocoa economy. However, as Lund (2011: 73) has remarked, "the issue of land is not unique, but rather one of a range of issues where political and legal struggles intertwine, where local powers and less localized power structures interact, and where political and cultural symbols of power and authority are brought into play".

In this sense, this paper tried to investigate how people use different norms and sources of legitimacy to reinforce or to contest rights to land, and the crucial role that local authorities have in producing, reinventing and imposing norms through "practices". An initial consequence is the simultaneous strengthening of "traditional" and state authorities through a mutual, and often ambiguous, exchange of legitimacy. A further consequence is that although access to land depends considerably on social position along the axes of gender, generation, class and origin, a wider social and political scenario has to be taken into account to understand how people like Kossiwa and John manage, for the moment, to preserve their rights. Making reference to national and international political contexts is central to the understanding of how these contexts interact with structures on the local level to

produce exclusion. In addition, recognizing these larger contexts is also crucial because this wider scenario is taken into account by the local authorities – who try to manage conflicts and to strengthen their own authority – and by people trying to reinforce their claims during trials through a multifaceted and rich pattern of political strategies, social relations and overlapping sources of legitimacy.

References

- Ahadji, Valentin Amétépé (1996), *Les plantations coloniales allemandes au Togo et leur évolution 1884-1939*, Thèse de doctorat d'Etat en Etudes Germaniques, Paris VII.
- Akibode, A. Koffi, et al. (1989), The Dynamics of Land Tenure and Agrarian Systems in Togo, in: R. S. Odingo (ed.), *The Dynamics of Land Tenure and Agrarian Systems in Africa. Case Studies from Ghana, Kenya, Madagascar and Togo*, Rome: FAO, 194-233.
- Amanor, Kojo (2006), Customary Land, Mobile Labor and Alienation in the Eastern Region of Ghana, in: Richard Kuba and Carola Lentz (eds.), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Austin, Gareth (1988), Capitalists and Chiefs in the Cocoa Hold-ups in South Asante, 1927-1938, in: *International Journal of African Historical Studies*, 21, 63-98.
- Bellagamba, Alice, and Georg Klute (eds.) (2008), *Beside the State: Emergent Powers in Contemporary Africa*, Cologne: Rüdiger Köppe.
- Benda-Beckmann, Franz von (2002), Who is Afraid of Legal Pluralism?, in: *Journal of Legal Pluralism*, 47, 37-83.
- Berry, Sara (1989), Social Institutions and Access to Resources, in: *Africa*, 59, 1, 41-55.
- Berry, Sara (1992), Hegemony on a Shoestring: Indirect Rule and Access to Agricultural Land, in: *Africa*, 62, 3, 327-355.
- Berry, Sara (2002), Debating the Land Question in Africa, in: *Comparative Studies in Society and History*, 44, 4, 638-668.
- Berry, Sara (2006), Privatization and the Politics of Belonging in West Africa, in: Richard Kuba and Carola Lentz (eds.), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Berry, Sara (2009), Property, Authority and Citizenship: Land Claims, Politics and the Dynamics of Social Division in West Africa, in: *Development and Change*, 40, 1, 23-45.
- Bishop, Joshua T. (2002), *Land Tenure and Land Use in Southern Togo: Description of a Farm Household Survey*, London: International Institute for Environment and Development/FAO, online: <<http://pubs.iied.org/9159IIED.html>> (25 April 2012).

- Boni, Stefano (2006), Indigenous Blood and Foreign Labour: The Ancestralization of Land Rights in Sefwi (Ghana), in: Richard Kuba and Carola Lentz (eds.), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Bourdieu, Pierre (1972), *Esquisse d'une théorie de la pratique précédé de trois études d'ethnologie kabyle*, Paris: Seuil.
- Bukh, Jette (1979), *The Village Woman in Ghana*, Uppsala: Scandinavian Institute of African Studies
- Ceuppens, Bambi, and Peter Geschiere (2005), Autochthony: Local or Global? New Modes in the Struggle over Citizenship and Belonging in Africa and Europe, in: *Annual Review of Anthropology*, 34, 385-407.
- Chauveau, Jean-Pierre (2006), How Does an Institution Evolve? Land, Politics, Intergenerational Relations and the Institution of the Tutorat amongst Autochthones and Immigrants (Gban region, Côte d'Ivoire), in: Richard Kuba and Carola Lentz (eds.), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Chauveau, Jean-Pierre (2009), La loi de 1998 sur le domaine rural dans l'histoire des politiques foncières en Côte d'Ivoire: la politique des transferts de droits entre "autochtones" et "étrangers" en zone forestière, in: Jean-Philippe Colin, Pierre-Yves Le Meur and Eric Léonard (eds.), *Les politiques d'enregistrement des droits fonciers: Du cadre légal aux pratiques locales*, Paris: Karthala, 105-140.
- Chauveau, Jean-Pierre, and Jean-Philippe Colin (2010), Customary Transfers and Land Sales in Côte d'Ivoire: Revisiting the Embeddedness Issue, in: *Africa*, 80, 81-103.
- Colin, Jean-Philippe, and Mourad Ayouz (2006), The Development of a Land Market? Insights from Côte d'Ivoire, in: *Land Economics*, 82, 3, 404-423.
- Colin, Jean-Philippe, Pierre-Yves Le Meur and Eric Léonard (eds.) (2009), *Les politiques d'enregistrement des droits fonciers: du cadre légal aux pratiques locales*, Paris: Karthala.
- Gayibor, Nicoué (1997), *Le Togo sous domination coloniale (1884-1960)*, Lomé: Les Presses de l'UB.
- Gayibor, Nicoué (2005), *Histoire des Togolais, Volume II*, Lomé: Presses de l'Université de Bénin.
- Geschiere, Peter, and Stephen Jackson (2006), Autochthony and the Crisis of Citizenship: Democratization, Decentralization, and the Politics of Belonging, in: *African Studies Review*, 49, 2, 1-7.
- Gluckman, Max (1965), *The Ideas in Barotse Jurisprudence*, New Haven, Conn.: Yale University Press

- Gray, Leslie, and Michael Kevane (1999), Diminished Access, Diverted Exclusion: Women and Land Tenure in Sub-Saharan Africa, in: *African Studies Review*, 42, 2, 15-39.
- Greene, Sandra (1996), *Gender, Ethnicity, and Social Change on the Upper Slave Coast*, Portsmouth, London: Heinemann and James Currey.
- Griffiths, John (1986), What is Legal Pluralism?, in: *Journal of Legal Pluralism*, 24: 1-55.
- Guyer, Jane (1981), Household and Community in African Studies, in: *African Studies Review*, 24, 2/3, 87-137.
- Gu-Konu, E. Yema (1983), Pratique foncières dans le sud est Togo. Le Dibi-madibi et son articulation au régime foncier capitaliste, in: *Pratiques foncières locales en Afrique Noire*, Colloque International de Saint Riquier (France), 5-9 décembre 1983. Dossier des contributions recues.
- Hill, Polly (1963), *The Migrant Cocoa-Farmers of Southern Ghana: A Study in Rural Capitalism*, Cambridge: Cambridge University Press.
- Klute, Georg, Birgit Embalò, Anne-Kristin Borszik and Idrissa Embalò (eds.) (2008), *Experiências Locais de Gestão de Conflitos*, Bissau: Inep.
- Kuba, Richard, and Carola Lentz (eds.) (2006), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Lawrance, Benjamin N. (2003), En Proie à la Fièvre du Cacao: Land and Resource Conflict on an Ewe Frontier, 1922-1939, in: *African Economic History*, 31, 135-181.
- Lavigne Delville, Philippe (1998), *Quelles politiques foncières pour l'Afrique rurale?*, Paris: Karthala.
- Lavigne Delville, Philippe, Camilla Toulmin, Jean-Philippe Colin and Jean-Pierre Chauveau (2002), *Negotiating Access to Land in West Africa: A Synthesis of Findings from Research on Derived Rights to Land*, London: IIED.
- Lentz, Carola (2006), First-comers and Late-comers: Indigenous Theories of Land Ownership in the West African Savanna, in: Richard Kuba, and Carola Lentz (eds.), *Land and the Politics of Belonging in West Africa*, Leiden, Boston: Brill.
- Lund, Christian (2011), Property and Citizenship: Conceptually Connecting Land Holdings in Africa, in: *Africa Spectrum*, 46, 3, 71-75.
- Nugent, Paul (2002), *Smugglers, Secessionists and Loyal Citizens on the Ghana Togo Frontier*, Athens OH: Ohio University Press.
- Piot, Charles (1999), *Remotely Global: Village Modernity in West Africa*, Chicago: The University of Chicago Press.
- Platteau, Jean-Philippe (1996), The Evolutionary Theory of Land Rights as Applied to Sub-Saharan Africa: A Critical Assessment, in: *Development and Change*, 27, 29-86.

- Quesnel, André, and Patrice Vimard (1988), *Dynamique de population en économie de plantation: le plateau de Dayes au Sud-Ouest du Togo*, Paris: Orstom.
- Ribot, Jesse C., and Nancy L. Peluso (2003), A Theory of Access, in: *Rural Sociology*, 68, 2, 153-181.
- van Rouveroy van Nieuwaal, E. Adriaan B. (1996), State and Chiefs: Are Chiefs mere Puppets?, in: *Journal of Legal Pluralism*, 37: 39-79.
- van Rouveroy van Nieuwaal, E. Adriaan B. (2000), *L'Etat en Afrique face à la chefferie: le cas du Togo*, Paris: Karthala.
- van Rouveroy van Nieuwaal, E. Adriaan B., and Rijk van Dijk (1999), *African Chieftaincy in a New Socio-political Landscape*, Leiden: African Studies Center.
- Shipton, Parker, and Mitzi Goheen (1992), Introduction. Understanding African Land-Holding: Power, Wealth and Meaning, in: *Africa: Journal of the International African Institute*, 62, 3, 307-325.
- Spieth, Jakob (1906), *Die Ewe-Stämme*, Berlin: Dietrich Reimer (trad. Franc. 2009, *Les Communautés Ewe*, Lomé: Presses de l'UL).
- Sutton, Inez (1983), Labour in Commercial Agriculture in Ghana in the Late Nineteenth and Early Twentieth Centuries, in: *The Journal of African History*, 24, 4, 461-483.
- Toulabor, Comi M. (1986), *Le Togo sous Eyadema*, Paris: Karthala.
- Trotha, Trutz von (1996), From Administrative to Civil Chieftaincy: Some Problems and Prospects of African Chieftaincy, in: *Journal of Legal Pluralism*, 37-38, 79-107.
- Ubink, Janine M., and Kojo S. Amanor (2008), *Contesting Land and Custom in Ghana*, Amsterdam, Leiden: Leiden University Press.
- Yngstrom, Ingrid (2002), Women, Wives and Land Rights in Africa: Situating Gender Beyond the Household in the Debate Over Land Policy and Changing Tenure Systems, in: *Oxford Development Studies*, 30, 1, 2002.

Landtransaktionen und *Chefferie* im Südwesten Togos

Zusammenfassung: In vielen Gebieten Afrikas, in denen soziale Gruppen und Individuen sich dem zunehmenden Wettbewerb um Böden und Ressourcen stellen müssen, ist der Zugang zu Land zu einer entscheidenden Frage geworden. Auf der Basis von Feldforschungen im Südwesten Togos untersucht der Autor die angepassten und differenzierten Formen des Zugangs zu Land, die sich mit Anstieg und Rückgang des Kakao-Anbaus und den entsprechend veränderten ökonomischen und politischen Rahmenbedingungen entwickelt haben. Er zeigt auf, welche Strategien heute im Rah-

men asymmetrischer Machtbeziehungen und zunehmender sozialer Spannungen angewandt werden, um Rechte an Land zu sichern oder anzufechten – von der Manipulation sozialer Bindungen und der Registrierung von Landtiteln bis zur Neuaushandlung älterer Pachtverträge.

Schlagwörter: Togo, Grundbesitz, Bodennutzung, Bodenrecht, Soziale Integration