

Land and power in Africa:

The effects of recent land reforms

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Abstract

Since the end of the Cold War, African countries have seen a wave of land law reforms that have had various consequences. This paper focuses on the effects of such reforms on state-building. Although donors have supported land law reforms to strengthen tillers' land rights, some African countries have used such reforms to increase the state's power to control land. The paper identifies three consequences of such reforms among African countries. First, countries that have carried out systematic land registration, such as Ethiopia and Rwanda, have strengthened state control of land. Land registration has been closely linked to the state-building efforts of the ruling parties, which were former guerrillas and have formed authoritarian governments. Second, in countries under one-party dominant systems like Tanzania and Mozambique, land law reform has been utilised to strengthen the state or the ruling party's control of rural societies. Finally, in countries like Zambia, land law reform has accelerated the delegation of power from the central government and has increased the autonomy of traditional chiefs. In the political environment, in which no ruling party has monopolised the national-level political power for a long time, traditional chiefs enjoy considerable autonomy. This paper shows that the effects of land law reform on state-building in Africa vary according to the system of state power and the ruling political party.

Keywords: land law reform, state-building, Africa, party system, chief



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1. Introduction

African countries have actively carried out land reforms since the 1990s. With a few exceptions like South Africa and Zimbabwe, such reforms have generally been concerned with laws and institutions regarding land. As a consequence of measures taken for the arrangement of land rights, a number of significant changes have been introduced in terms of the use, distribution, and control of land. Two decades having passed since the initiation of these reforms, it is high time to investigate their effects. This paper is an attempt to examine the effects of recent land law reforms in Africa.

On one hand, land law reform has accelerated the commercialisation of land. Particularly since the 2000s, huge swaths of African land have been the objects of deals. Enclosure and marketisation of land have been increasingly conspicuous in rural parts of the continent. Some scholars have examined the effects of land law reforms on the commercialisation of land as well as land grabbing (Alden Wily 2014, Amanor 2018). Rapid increases in the size and frequency of large-scale land deals have undoubtedly been a critical feature of Africa in recent decades.

On the other hand, recent land reforms have had significant impacts on state-building; this is the focus of this paper. Land law reforms are closely related to the reorganisation of political power. Determining the delegation of rights to land, which is generally the most important means of production, particularly in rural areas, land law defines the whereabouts as well as the organisation of power. It follows that reforming land laws impacts power configurations. Considering the importance of land in the everyday lives of ordinary Africans and thus its importance in African politics, these impacts deserve careful investigation.

This paper argues that recent land reforms have had enormous impacts on African state-building. This argument is important for two primary reasons. First, impacts on state-building have been relatively neglected in land law reform. Despite the close connections between land laws and state-building, few scholars have studied their intertwined relationship (Boone 2007; 2014). Second, it offers a new perspective on the interpretation of large-scale land deals. Recently, important parts of the territories of African countries have been purchased by foreign private companies. The purchase of African land by foreign capital tends to be interpreted as the loss of national sovereignty. For example, as large-scale land purchases by foreign capital have concentrated in the African continent, Sassen argues these large-scale land acquisitions ‘produce a partial denationalisation deep inside nation-states, a structural hole in the tissue of national sovereign territory’, and interprets this trend as ‘one of several processes that partly disassemble national territory’ (Sassen 2013: 43). In other words, such land acquisitions would reduce the accountability and consequently exacerbate the fragility of African states. If recent land law reforms have contributed to the commodification of African lands, have they also contributed to further weaken fragile African states? Whereas land law reform has generally promoted the commodification of lands, its impacts on state-building have been various. This paper therefore calls for a more detailed analysis of the situation in each African country.

2. Recent land law reform in Africa: Contexts and motivations

African countries have seen a massive wave of land law reforms since the end of the Cold War. Table 1 shows the main land policies and land laws adopted since the 1990s in African countries. It is clear that many African countries have revised their land policies and launched land reforms in this period. Importantly, with few exceptions like South Africa and Zimbabwe, almost all of these have reformed land laws and/or policies. Land reforms in this period have been carried out mainly through institutional changes. In addition, these reforms have shared similar objectives, aiming to strengthen tillers' land rights.

2.1. External factors

The fact that these reforms were almost simultaneously launched in the post-Cold War period and that their objectives are similar suggests an external influence over such policy changes. In fact, in this period, on a rising tide of marketisation and democratisation, donors have ardently promoted land reforms for two purposes, the first of which is to secure tillers' land rights to increase investment (by tillers themselves as well as external investors) and improve productivity. The logic of this objective is clarified in the report of the 'Commission for Africa', which was established on the initiative of the UK's Blair government. The report emphasised the necessity for land rights reforms, arguing that securing property rights would be indispensable for promoting investment, and thus for agricultural development. Considering land registration as a precondition of land security, the report recommended the use of geographic information systems (GIS) as well as computers to reduce costs. It argued that the clarification of land rights through the registration of each parcel would increase incentives for investment not only among farmers but also investors and activate rural financial markets by enabling farmers to take loans while using parcels as collateral (Commission for Africa 2005: 46, 223, 231). Presuming such a path for economic development, the establishment of private property rights has been considered as a key economic policy. The idea is a textbook-style policy for market-oriented economic growth. *The Mystery of Capital: Why Capitalism Triumphs in the West and Fails Everywhere Else* by De Soto (2000), which advocates this development path, has been widely accepted by donors and has had significant political influence.

The second objective has been the reduction of land conflicts and the improvement of governance. The logic that land reform should address land governance can be found in the World Bank policy report (Deininger 2003), which was published three decades after the previous policy paper on land (World Bank 1975). Contrary to the 1975 paper, which focused exclusively on the establishment of private property rights as a method of securing land rights, the 2003 paper recognised that tillers' rights could be secured under the customary land tenure system. It argued that customary lands had been generally well-managed under traditional authorities and are equipped with conflict resolution mechanisms, and therefore that official recognition of the customary tenure would lead to low-cost and effective land management, thus stabilising land rights for each member of the community. Considering the disappointing results of land registration policies carried out before the 1990s as well as theoretical development of economics, the 2003

paper emphasised the significance of officially recognising customary land rights to ensure land tenure security (Deininger and Binswanger 2001). Tillers' rights will be secured regardless of the land tenure system if the legitimacy of their rights is willingly accepted by stakeholders and a sustainable land management mechanism exists. In short, the 2003 paper argues that governance is important.

The close relationship between land reforms and good governance has recently been highlighted by World Bank researchers (Deininger and Feder 2009, Deininger *et al.* 2012). They argue that constructing a mechanism for effective and equitable land management will contribute not only to securing land rights and increasing agricultural productivity but also to empowering the rural poor, enhancing gender equality, and successfully implementing policies regarding decentralisation and peace-building. Here, institutional land reform is considered to support good governance. The argument supposes that official recognition of customary land rights by the state will change the perception of local communities and make them recognise the state as legitimate, thus improving and stabilising state-society relations. In this logic, we can find the same line of argument with policies on state-building, which has become mainstream in development aid since the 2000s (OECD 2008). Just like other issues for global governance in the post-Cold War period, including democratisation, decentralisation, and peace-building, land reforms have been carried out under the strong influence of liberal democracy.

2.2. Internal contexts

Although donors' expectations and assistance have been an important factor for the promotion of land reforms since the 1990s, they are only one side of the story. Like the introduction of the structural adjustment policy in the 1980s as well as that of the multi-party system in the 1990s, African countries have had their own logic and motivations for adopting new policies, strongly promoted by external actors. To understand recent land reforms in Africa, the following three contexts are particularly important.

First, it was compelling for some countries to revise prior land policies that had produced fatal outcomes. African socialist countries like Tanzania and Mozambique had actively promoted villagisation and collective farms in the 1970s. These policies, however, had delivered disastrous results, thereby obliging the governments to initiate arguments for revision as early as in the 1980s. For these countries, land reforms were sooner or later indispensable for establishing new land administrations.

Second, armed conflicts that frequently took place in this period in Africa were another important factor for land reform. Those who seize political power will make efforts to build a land tenure system that is advantageous for themselves. In fact, land reforms have often been carried out as a result of the revision of political order following armed conflicts. A good example is Rwanda, where the former rebel group, the Rwandan Patriotic Front (RPF), carried out a series of land reforms following its victory in the civil war in 1994 (Takeuchi and Marara 2014). Through active interventions in land matters, the RPF-led government has attempted to create a new property regime corresponding to the new political order.

In Kenya, which was seriously destabilised by post-electoral violence during 2007 and 2008, land

problems have been the central focus in negotiations for restoring the political order. In this case, land reforms were urgently requested for the resolution of the conflict. Although land problems were not the direct cause of the PEV, Kenyan political elites shared a sense of necessity in addressing them, as they had been always an underlying cause of popular dissatisfaction.

Finally, the drastic changes in politics and economy that have taken place in Africa since the 1980s have exerted crucial influence over simultaneous and similar land reforms. In fact, African countries have seen dramatic policy changes in this period. In the 1980s, Africa saw the start of radical economic liberalisation due to the introduction of structural adjustment policies. The end of the Cold War brought about a rapid transition from a one-party to multi-party system in a significant number of countries. Abolition of the apartheid regime in South Africa was also an extremely important event in this period. These macro-level changes in the African political economy created historic opportunities to review fundamental policies, including those related to land. In Africa, as a consequence of colonial and post-colonial policies, the state had exercised strong power over land. Until the 1980s, it was common for land ownership to belong to the state, for buying and selling of land to be prohibited, and for individual land rights to be ambiguous. In the context of the post-Cold War period, in which democratisation and marketisation have been strongly promoted, policies strengthening individual property rights have been willingly accepted and adopted in African countries.

For example, in Zambia, in the multi-party election in 1991, the newly established Movement for Multiparty Democracy (MMD) defeated the United National Independence Party (UNIP), which had been the ruling party since independence. During the election campaign, the MMD promised to change the UNIP's socialist policies and strengthen private property rights. Following the electoral victory, the MMD adopted new land laws in 1995, reinforcing individual rights over lands (Brown 2005).

As we have seen in this subsection, African countries have had their own motivations for conducting land reform. Whereas a number of countries have launched land reforms in a similar period with similar goals, their motivations and purposes have differed..

3. Reorganisation of power through land reform

Because land is a critical means of production in rural Africa, related reforms may strongly affect the distribution of political power. Africans in rural areas were generally negated individual land rights in colonial times, as land ownership was attributed to communities that were reorganised under the colonial administration (Meek 1968). Post-colonial African states adopted the same vein of policies with a few exceptions, including Kenya, in attributing land ownership to the state (Chanock 1991). Considering this historical development, recent land reforms that aim to strengthen tillers' land rights may have enormous impacts on African rural societies in empowering ordinary African farmers. However, the impacts have been never straightforward. This section examines the consequences of recent land law reforms in five

countries (Rwanda, Ethiopia, Mozambique, Tanzania, and Zambia)¹ and classifies such reforms into three groups.

3.1. Implications of systematic land registration

The first group is composed of Rwanda and Ethiopia. The two countries carried out systematic land registration and delivered land certificates to a significant group of citizens. Although they differ in size, Rwanda and Ethiopia have a number of commonalities regarding land policy as well as recent political history. In both countries, the ruling parties (Rwandan Patriotic Front and Ethiopian People's Revolutionary Democratic Front) were rebels during the civil wars in the 1990s. After winning the wars, they established strong control over the territory and were often seen as oppressive.

Under the former rebels' rules since the beginning of the 1990s, the two countries have actively intervened in land ownership. Rwanda adopted the National Land Policy in 2004, stipulated the new land law in the next year,² and launched systematic land registration in the end of 2000s (Sagashya 2012). With strong support from donors including the UK government and the World Bank, Rwanda delivered land certificates to a great majority of nationals by 2012. Today, Rwandans generally possess a number of land certificates according to their registered plots. Substantially, Rwanda was the first African country to succeed in delivering land certificates to nationals living all over the territory. In the case of Ethiopia, land registration started much earlier: after the proclamation of a new land law in 1997,³ four main regions (Tigray, Amhara, Oromia, and Southern Nations, Nationalities, and Peoples)⁴ launched the operation. With similar strong support from donors, the country has almost achieved full registration in the four regions (Bezu and Holden 2014, 195).

As a background of land registration, both countries had a strong sense of crisis; the two countries suffered from land shortages due to their extremely high population density. With 483 people per square kilometre, Rwanda has the highest population density in Africa. Although Ethiopia's average population density is smaller (102 people per square kilometre),⁵ it is generally much more significant in the highland areas. Against this backdrop, land has been increasingly scarce in the countries, causing serious agricultural difficulties. This sense of crisis was widely shared among policymakers in the two countries before the new land policies were adopted.

Rwanda's National Land Policy was very clear on this point. The policy paper listed a number of

¹ The country analyses are mainly based on a research project that was funded by the Institute of Developing Economies - JETRO during 2015 and 2016, in which ten countries were selected for case studies by eight researchers.

² Organic Law No. 08/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda.

³ Rural Land Administration Proclamation of the Federal Government of Ethiopia (No. 89/1997).

⁴ Ethiopia is a federal state subdivided into nine regions (regional states) and two chartered cities.

⁵ Statistics of population density in the two countries are from 2016. They are from the World Bank, *World Development Indicators* (<http://databank.worldbank.org/data/reports.aspx?source=world-development-indicators>).

serious problems that post-conflict Rwanda needed to tackle, namely strong population pressure, domination of subsistence agriculture, a considerable number of landless persons, and scattered farming plots (Republic of Rwanda 2004: 5). It clearly showed the government's perception that land-related problems, dangerous not only for agriculture but also for the environment and dwellings, were so acute that a wide range of policy interventions were urgently needed. Against this backdrop, the importance of a 'land administration', defined as 'the process of registration and dissemination of information in relation to land titles and all sorts of land transactions, as well as the use of land-linked natural resources' (Republic of Rwanda 2004: 30), was strongly emphasised. In other words, the new land policy required a management system promoting the effective and efficient use of land and other natural resources. In this context, land registration was a prerequisite for this 'land administration'. The Rwandan government, therefore, considered land registration as an indispensable means for reorganising the current land tenure system, which was faced with all sorts of problems.

These ideas of the National Land Policy were accurately adopted in the Organic Land Law, characterised by strong control by the state over land users. For instance, it prohibits the reduction of land for agriculture to less than a hectare (art. 20). Farmers are officially prohibited from dividing small plots for sale or inheritance, although they continue to do this informally. In addition, the law requires landowners to comply with obligations of 'protection, conservation and better exploitation of the land' (art. 61). Anyone who owns land 'must use it in a productive way', which is defined as 'to protect it from erosion, safeguard its fertility and ensuring its production in a sustainable way' (art. 62)⁶. Tight controls over land users have been quite effective; the telling example is land consolidation. On the basis of article 20 of the land law, the Rwandan government has imposed designated crops on farmers in providing fertilisers and improved seeds. Whereas opinions have been divided about the effects of this policy,⁷ it is undoubtedly a strong state intervention for controlling land users.

In this context, the Rwandan government launched land registration, which was stipulated as mandatory in the land law (art. 30). With strong assistance from donors, particularly the UK, the government started a programme of systematic tenure regularisation in 2005. Following Phase I, which focused on the development of a road map, trial intervention, and reforms, Phase II began in 2009 for full implementation (Bruce 2014a). Although the process was not perfect, the overwhelming majority of Rwandans received land titles by the end of Phase II (2013). It is quite remarkable that within several years, the country established a unitary land tenure system through nationwide land registration.

In Ethiopia, the backgrounds and purposes of land law reform have been similar to those in Rwanda.

⁶ The obligations of exploitation for landowners have a long history in Central Africa. Originating with colonial regulations for concession owners, similar provisions can be found in a number of land laws in post-colonial African countries, including that of Zaire in 1973 and Burundi in 1986. These provisions were maintained in the revised Rwandan land law in 2013 (Law No. 43/2013 of 16/06/2013 Governing Land in Rwanda).

⁷ Although the majority of the literature has been critical of this policy (Ansoms *et al.* 2014, Cioffo *et al.* 2016, Huggins 2017, Dawson *et al.* 2016), Harrison (2016) defended Rwanda's interventionist rural policies as a realistic approach on the grounds of the current difficult circumstances.

The country has a much longer history of interventions in land than Rwanda. Following the revolution in 1974, the Derg regime implemented socialist policies and actively implemented land-related policy interventions, including land redistribution, villagisation, and resettlement. Having established its government in 1991, the EPRDF began to follow the land policies of the previous regime,⁸ but later shifted to focus on institutional measures in adopting the federal land law in 1997. This first federal land law was revised in 2005⁹ and has since been regarded as the basic principle of land policy. It enabled the regions to appropriate lands without heirs for distributing them to other farmers (art. 9) and introduced the minimum rural land holding size (art. 11). On the basis of federal land law, each regional state enacts its own land law to deal with land-related problems.

Establishing state control over land has been one of the clearest motivations and consequences of the new land law. In the Amhara region, the enactment of regional land laws and regulations have contributed to asserting state control over land management in the following four points (Kodama 2017). First, conditions for land appropriation have been clarified. Those who do not cultivate land are prohibited from owning it; their lands are appropriated and redistributed to others who can cultivate. Second, the minimum holding size was fixed as 0.2 ha for land without irrigation and 0.06 ha for land with irrigation. Any land holding smaller than these sizes is not allowed. This regulation critically affects inheritance. Third, land registration became *de facto* mandatory because the law stipulates that users can claim rights over lands only when they are registered. Fourth, administrative organisations have been created for land management. At the regional state level, the Amhara National Regional State Environmental Protection, Land Administration and Use Authority was established. As its branch office, the Land Administrative Committee has been set up at the village (*qebele*) level and has the authority to deal with land-related affairs, including appropriation and redistribution of land as well as management of land conflicts. As central members of the Land Administrative Committee were dominated by a cadre of the EPRDF, the establishment of the land management system consolidates the existent political order led by the ruling party. Although Ethiopia was cited in Sassen (2013) as one of the ‘top six land sellers in Africa’, it is also true that the country has established a strong state control over land and rural communities (at least in the highlands).

Importantly, despite systematic land registration, the deliverance of land certificate has not strengthened the land rights of private land users. It is clear that both Rwanda and Ethiopia have undertaken land law reform because they considered it a central issue of state-building. The sense of crisis possessed by the policy makers, which was a strong driving force for the reform, was concerned not only with the land itself, but with a broad range of issues concerning the establishment of political order. Issues such as

⁸ For instance, the redistribution of land was carried out in the early 1990s in the northern part of the Amhara Region.

⁹ Federal Democratic Republic of Ethiopia Rural Land Administration and Use Proclamation (Proclamation No. 456/2005).

reforming subsistence agriculture, ensuring agricultural sustainability, dealing with landless people, and establishing a financial base for the government are closely linked with the broader management of the state. They are too important to be dealt with only by land and agriculture-related ministries. Both countries have attempted to tackle these issues by strengthening the state's control over land to boost agricultural productivity and promote efficient land use. Land registration has been considered indispensable in this context and has been carried out for this purpose. It is therefore quite natural that the deliverance of land certificates has not resulted in strengthening private property rights. Land registration has been put forward in Rwanda and Ethiopia to provide the state with instruments for controlling lands, and then people. Their motivation has been quite different from that of donors.

3.2. Implementing land law for the consolidation of a one-party dominant system

Mozambique and Tanzania differ from the countries in the first group, Rwanda and Ethiopia. As they have a lower population density (the national average in 2016 was 36.7 persons/km² in Mozambique and 62.7 persons/km² in Tanzania), land is relatively abundant in these countries. Although the two countries have not carried out systematic land registration, they have actively promoted foreign direct investment to boost economic growth. As a result, the two countries, having seen the proliferation of large-scale land deals, were also included in the 'top six African land sellers' listed in Sassen (2013).

Mozambique and Tanzania have similar historical backgrounds regarding the enactment of new land laws. Both countries adopted socialist policies until the 1980s and actively intervened in lands. Under the Ujamaa policy, Tanzania undertook villagisation, particularly in the 1970s and 80s. Following its independence in 1975, Mozambique put forward socialist policies including the villagisation and construction of collective farms until 1983, when the ruling FRELIMO party decided to change its socialist stance. The end of the Cold War urged the two countries to officially abandon socialist policies and to build a new policy framework regarding land. Basically adopting the donors' logic, the two countries enacted new land laws at the end of the 1990s (Mozambique in 1997, Tanzania in 1999).¹⁰ These new land laws have often been praised by the international community because they endorsed the customary rights of local communities as legitimate, recognised the right for local communities to register their lands, and carried out extensive popular consultation for the elaboration of land laws. Despite the local-friendly appearance of the land laws, it should be noted that both Mozambique and Tanzania have adopted clear macro-economic policies promoting FDI and the commercialisation of agriculture. Against this backdrop, large-scale land deals have proliferated.

Importantly, the land law reforms in the two countries have affected the land management systems of local communities. In Mozambique, in parallel with land law reform, local communities have been reorganised to be more closely connected to the central government (Aminaka 2017). In a consequence of

¹⁰ The 'Lei de Terras, Lei no.19/97' for Mozambique, the 'Land Act' and the 'Village Land Act' in 1999 for Tanzania.

land reform, the country recognised the issuance certificates of usufruct rights (*direito de uso e aproveitamento de terra*: DUAT) for individuals, corporate bodies, as well as local communities (*comunidade*). This means that the acquisition of the DUAT certificates is indispensable for land deals. To acquire DUAT certificates, a consultation must be held with the concerned local communities. The consultation should be carried out under the initiative of the Local Consultative Council (*Conselho Consultivo de Povoação e de Localidade*), whose core members are composed of the ‘communal authorities’ (*autoridades comunitárias*), organisations established in 2000 in the context of decentralisation. The ‘communal authorities’ include not only the ‘traditional authorities’ (*autoridades tradicionais*), which have traditionally played a central role in land management,¹¹ but also other leaders in the local community, such as officials of the local administration and former veterans. In short, the ‘communal authorities’ are far from autonomous local communities. Rather, they are political arenas in which political parties compete to gain advantages to influence local land distribution through the Local Consultative Council.

In this structure, the FRELIMO has expanded its influence at the local level. In the Mozambican local administration system, the interior minister and the provincial governors, both of whom are nominated by the president, hold considerable power over the chiefs at lower levels because they are responsible for nominating them. This means that the country has built a local administration in which the political party supporting the president can easily consolidate power at the local level. In fact, the FRELIMO has placed its supporters in positions in the communal authorities.¹² In restructuring the local administration, the Mozambican state led by the FRELIMO has achieved greater penetration at the local level, where it increased its influence over land distribution.

Tanzania has also seen an increase in state control over land distribution (Ikeno 2017). The Village Land Law (1999) gave the ‘village council’ the authority for land management in the village according to the customary law. However, the meaning of ‘customary’ is quite ambiguous. Tanzania’s villages have been significantly transformed since colonial times. In particular, the post-colonial socialist regime systematically suppressed the roles of traditional chiefs and carried out villagisation through the Ujamaa policy, causing a significant reorganisation of the relationship between lands and users. Generally, the Tanzanian village cannot be considered an autonomous community, in which local land management is handled according to the logic of kinship. In fact, the central government’s control over the villages has been increasingly established through villagisation. It should be noted that the Village Executive Officer, playing central roles in the village administration, is an officer appointed by the District. A specialist of land policy assesses the Tanzanian land administration as ‘a centrally planned and implemented extension

¹¹ It should be noted that the ‘traditional authorities’, called *‘réglo’*, have various backgrounds and are not politically neutral. For example, some of them have not been considered legitimate because they were appointed by the colonial authorities. In addition, during the civil war, their political stance (supporting FRELIMO or RENAMO) created a division among people.

¹² For instance, many FRELIMO veterans have become members of the communal authorities.

of the land registry service' (Bruce 2014b: 66).

Both in Mozambique and in Tanzania, the state has continuously attempted to establish control over rural societies since independence. Not only the suppression of chiefs and villagisation in the socialist era but also the recent policy of decentralisation has been utilised for this purpose. As Dickovick and Wunsch (2014) pointed out, decentralisation policies have strengthened central control of rural societies in Africa, particularly in countries with dominant party systems, including Mozambique and Tanzania. The two countries, in other words the FRELIMO and the CCM, have utilised recent land law reforms in this context. Following a series of land reforms, centralised rather than localised land management has been clearly enhanced.

3.3. Delegation of power to chiefs

In some countries, the consequences of land law reform have been quite different from the above-mentioned cases in which the central government has strengthened its control over lands and societies through reforms. In the case of Zambia, following the adoption of the 1995 Land Act that requires the consent and approval of chiefs for the alienation of lands,¹³ the power of traditional leaders over the distribution of lands has been reinforced. The chiefs' power over land has been so strong that some of them have even issued their own 'land allocation forms' in addition to the 'titles deeds' issued by the government. In rural areas, the former tends to be more effective than the latter. In his field research, Oyama witnessed a chief nullifying an official title deed owned by an outsider and permitting ordinary villagers to cultivate the area (Oyama 2016). This indicates that chiefs' powers over the land often substantially exceed that of the central government.

Whereas chiefs have long had strong power over lands in Zambia, the 1995 Land Act gave this power legal grounds. As mentioned above, Zambia reformed its land policy because of regime change. Following the abolishment of the one-party system, Kenneth Kaunda and the UNIP, which was the sole legally admitted party, lost power in the 1991 general election. The new ruling party, MMD, adopted the new land law according to their manifesto for strengthening individual property rights. At the beginning of the debate, chiefs opposed the land law reform, as they were afraid that the law might reduce their power over land in strengthening individual land rights. However, the new land law has enforced chiefs' rights for land distribution rather than farmers' individual property rights.

There may be multiple reasons for these effects of the 1995 Land Act. It is clear that its provisions requiring chiefs' approval for land deals have significantly contributed to these effects. In addition, the Zambian party system may have important implication on the implementation of such laws. Since the introduction of the multi-party system, Zambia has seen repeated shifts of the ruling party. The MMD, which won in a land-slide victory in 1991, lost the majority in 2001, though the president was issued from

¹³ Republic of Zambia, The Land Act, See for example, Part II, 3.(4)(b)(d) and 8.(2)(3).

the party. In the 2011 general election, the PF (Patriotic Front) won a majority and became the ruling party with president Michael Sata. Repeated regime changes through voting imply that multi-party democracy has worked in the country. In fact, Zambia has been given a high score among African countries in the assessments of democracy including Freedom House and Polity IV. No particular ruling party, fusing with the local administration, has systematically intervened in local politics. Moreover, even during the Kaunda regime advocating African socialism, the country was generous with traditional chiefs and never massively persecuted them. Consequently, chiefs have relatively maintained their autonomy and took the opportunity of land law reform to firmly establish their authority.

In-depth case studies are needed, as the case in Zambia may share similar traits with those of countries like Ghana and Sierra Leone, where regimes have repeatedly been changed through voting.

4. Discussion

This paper demonstrates that African countries have experienced various land law reforms in terms of motivations, meanings, and consequences. It identifies the following three patterns through case studies of land law reform. First, land law reform in some countries has been utilised as an important instrument for reorganising society in the context of post-conflict state-building. In Rwanda and Ethiopia (highlands), the ruling parties that were formerly rebels have actively intervened in lands since seizing power in the civil war. Radical intervention measures, including systematic land registration, have been carried out against the backdrop of a strong sense of crisis about subsistence agriculture and land shortage. In other words, a serious concern about building public order has existed in these countries, and land law reform has allowed these states to increase their control over societies. Under the strong initiative of the ruling party, the two countries have undertaken significant social restructuring through interventions via land. In both countries, the interventions have generally been carried out with authoritarian methods through the line of the ruling parties, which have often brought severe criticism from scholars and human rights defenders (Ansoms 2009, Huggins 2017). One of the reasons that the policy implementation has been so authoritarian is that land policies in the countries have been crucial for the current ruling party's state-building efforts.

Second, land law reform in other countries has been utilised to strengthen the control of the state and/or the ruling party. Both in Mozambique and Tanzania, measures for intervening in land have not been as drastic as those in the first group. Rather, they have been combined with decentralisation to establish effective control by the central state. In these cases, governments did not undertake significant social restructuring, although the ruling parties have continuously attempted to increase their control over the society. In this context, land law reform has been utilised to strengthen the control of the state and ruling party.

Finally, in some countries, land law reform has accelerated the delegation of power from the central government and has increased the autonomy of traditional chiefs; Zambia is a typical case. The fact that no ruling party has succeeded in monopolising political power for a long time at the national level has

reduced the consistent pressure and intervention from the centre to the local communities so that traditional chiefs enjoy considerable autonomy. Land law reforms have strengthened chiefs' authority over the land rather than ordinary citizens' property rights, particularly in rural areas. This may have ambiguous effects on democracy in the country. Zambia has been generally considered to demonstrate good democratic performance in several rankings, including the Freedom House and the Polity IV (Harbeson 2013). However, if chiefs exercise greater discretion regarding land allocation and if land rights become significantly dependent on traditional chiefs, democratic decision-making in local communities may be undermined.

On the basis of five case studies in African countries, this paper has shown various consequences of recent land law reforms and identified three different patterns. It clearly indicates that the meanings and consequences of land law reform have varied according to the nature of the existent political order and the party system. Authoritarian regimes with strong population pressure have made use of land registration as an efficient tool to increase control over the land and local communities. In other countries with dominant party regimes, recent land law reforms, along with decentralisation policies, have been utilised to increase centralised control. On the contrary, in Zambia, where no ruling party has established a long-term rule in the central government, land law regime has strengthened the autonomy of the traditional chiefs. In this case, the reform has so far resulted in the delegation of power over the land from the state to the chiefs.

State fragility has been a common challenge for African countries, which have consistently focused on state-building efforts. This paper shows that the roles and functions of land law reform in the context of state-building have been quite different across the continent. Whereas some countries have intentionally utilised such reforms to consolidate state power, these reforms have accelerated the delegation of state power to local chiefs in other cases. Therefore, land acquisition by foreign companies will not necessarily exacerbate state fragility. Rather, it is the nature of land policies and their roles in state-building that affect their impacts. Although Ethiopia has actively promoted land acquisition by foreign capital, it has increased its control over land through land reform. On the contrary, although the size of land acquisition has been smaller in Zambia, state control over land has been increasingly lost since the adoption of new land laws. The effects of land acquisition on state-building seem to be highly related to the nature of land policies rather than the nationality of capital.

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Table 1. Main land policies and land laws adopted after the 1990s in Africa

Country	Main land policies and land laws adopted after the 1990s
Angola	Lei de Terras de Angola (2004)
Benin	Loi No.2013-01 du 14 août 2013 portant code foncier et domanial en République du Bénin
Botswana	Botswana National Land Policy (2002)
Burkina Faso	Loi n° 014/96/ADP portant réorganisation agraire et foncière au Burkina Faso (1996) Loi No.034-2009/an portant régime foncier rural (2009)
Burundi	Lettre de politique foncière (2009) Loi No. 1/13 du 9 août portant révision du code foncier du Burundi (2011)
Cameroon	Décret n° 2005/481 du 16 décembre 2005 modifiant et complétant certaines dispositions du décret n° 76/165 du 27 avril 1976 fixant les conditions d'obtention du titre foncier (2005)
Cote d'Ivoire	Loi n°98-750 du 23 décembre 1998 relative au domaine foncier rural (1998) Revision (2004, 2013)
Ethiopia	Federal Rural Land Administration Proclamation (1997) Federal Democratic Republic of Ethiopia Rural Land Administration and Use Proclamation (2005)
Gabon	Loi n°3/2012 du 13 août 2012 portant ratification de l'ordonnance n°5/2012 du 13 février 2012 fixant le régime de la propriété foncière en République gabonaise (2012)
Ghana	Ghana Land Policy (1999) New land law under discussion (as of 2016)
Kenya	National Land Policy (2009)
Liberia	Land Commission Act (2009) Land Rights Policy (2013) Land Rights Bill (under discussion as of 2016)
Malawi	Malawi National Land Policy (2002) Malawi Land Reform Programme implementation strategy, 2003~2007 New land law under discussion as of 2016
Mozambique	Política Nacional de Terras (1995) Lei de Terras, Lei no.19/97 (1997)
Namibia	Agricultural (Commercial) Land Reform Act (1995) Communal Land Reform Act (2002) National Land Tenure Policy (2005)
Rwanda	National Land Policy (2004) Organic Law No. 08/2005 of 14/07/2005 Determining the Use and Management of Land in Rwanda (2005)
Senegal	Loi d'orientation agro-sylvo-pastorale (2004) Loi n° 2011-07 du 30 mars 2011 portant régime de la propriété foncière (2011)
Sierra Leone	National Land Policy (2015)
South Africa	Restitution of Land Rights Act 22 of 1994 (1994) White Paper on South African Land Policy (1997) Communal Land Rights Act 11 of 2004 (2004, suspended)
South Sudan	The Land Act (2009)
Tanzania	National Land Policy (1995) Land Act (1999) Village Land Act (1999) National Land Use Framework Plan 2013-2033, (2013)
Uganda	Land Act 1998 (1998) National Land Use Policy (2007) The Uganda National Land Policy (2013)
Zambia	Land Act (1995) National Land Policy (under discussion as of 2016年)
Zimbabwe	Land Acquisition Act (1992)

(Source) Created by the author.