

CUSTOMARY TRANSFERS AND LAND SALES IN CÔTE D'IVOIRE: REVISITING THE EMBEDDEDNESS ISSUE

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The issues of a better definition of land rights through legal change and titling programmes, and a better transferability of these rights through the development of sale and lease markets (with the lifting of legal prohibitions regarding these transfers), have become central in development thinking and public policies in developing countries (de Janvry *et al.* 2001; World Bank 2003). In the African context, the question of land markets is generally addressed by an analysis of how customary systems of land tenure are moving or have moved towards private appropriation, acknowledging an endogenous trend towards land commoditization (see Introduction, this issue). The surge of 'vernacular land markets', identified in some settings since the colonial period or even before, clearly invalidates any idealized vision of customary land tenure as excluding land commoditization (Chimhowu and Woodhouse 2006). However, although the notion of vernacular land markets sheds light on the development of land transactions in Africa, through the recognition of the complexity and versatility of customary transfers, it does not answer all the questions raised by these transfers. By customary transfers, we mean transfers which are not framed in legal procedures. In Francophone Africa, these transfers mainly concern unregistered plots which formally come under state property (*terres domaniales*).

We intend to frame our discussion through the concept of embeddedness. In Granovetter's perspective, embeddedness allows us to consider market exchange without isolating it from social relations (Granovetter 1985). In a much broader perspective, for Polanyi (1944, 1957) embeddedness referred to the interweaving of political, cultural and social institutions in the organization of production and exchange.¹

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¹The concept of embeddedness, its different meanings (embeddedness as a network of social relations facilitating market exchange versus embeddedness as a subordination of the economy to the social, political and cultural institutions), the way it is mobilized in sociology and anthropology (to deal with market exchange as such or to discuss the economy in terms of kinship, political rights and obligations, etc.), or the criticisms addressed to it (its vagueness, the suggestion that economic processes are only 'externally' related to the social, political and cultural spheres), have been the object of an abundant literature. In addition to the Polanyi and Granovetter texts already mentioned, see for example Barber (1995), Chimhowu and

In such a broad perspective, we intend to address the following questions:

- 1 The individualization of transfer rights and the use of money in land transfers are not enough to interpret land transfers as socially disembedded market transactions. Labelling the transfers as sales from the outset may therefore distort the analysis (Biebuyck 1964). As pointed out by Sjaastad (2003), the problematic character of the distinction between market and non-market exchanges is itself a research issue.
- 2 Since colonial times, the debate between those who see an ineluctable trend in land commoditization and those who advocate continuity of the social embeddedness of land transfers in Africa has been unnecessarily simplified and hardened. The fact that the debate has been going on for so long suggests that it refers to complex and diverse empirical situations, and that, if it reflects a transition process, it is quite a long-lasting transition.
- 3 Contrasting the empirical observation of monetarized land transfers with idealized communal tenure does not exhaust the issue. Few researchers still hold a simplistic notion of customary land tenure. This notion was already criticized in colonial times by scholars who pointed to the coexistence of individual and collective elements, as well as the self-interested, political and symbolic dimensions of the native systems of land holding (Gluckman 1944; Meek 1951; Mair 1956). It is precisely the intermingled and lasting character of these different dimensions and their possible instrumentalization in local practices regarding land transactions that make them a key research question. Furthermore, the social embeddedness of land transactions may not be reduced to the customary social forms that most conspicuously manifest this embeddedness (symbolic rituals or explicit allegiance demonstrations), but have wider ramifications, such as the mobilization of an ideology of autochthony in local political micro-arenas (Laurent 2007).
- 4 The issue of the social embeddedness of land transactions does not boil down to 'the assumption that socially embedded systems of landholding and land use guarantee access' (Peters 2004: 305). As Pauline Peters suggests, 'research needs to go beyond [the] formulation of relations over land being socially embedded to ask more precise questions about the type of social and political relations in which land is situated, particularly with reference to relations of inequality – of class, ethnicity, gender and age' (2004: 278).

It is indeed the very idea of embeddedness that is at issue. Our contribution to the debate will consist of the development of an empirical perspective regarding the embeddedness of land transfers, documenting the embedding processes in their diversity and historical

Woodhouse (2006), Dalton (1968), DiMaggio (1990), Peters (2004), Spillman (1999) and Zelizer (1988).

dimensions, as well as the implications of such processes for the content of the rights and duties transferred. With this aim in view, we will propose a brief historical ethnography of customary land transfers in the forested area of southern Côte d'Ivoire. We especially want to show the implications of taking into account two interlinked aspects of land transfers which usually come together in African contexts: rights and obligations regarding land access and control ('the land resource dimension'), and rights and obligations regarding group membership, and more generally the socio-political dimensions that condition the social recognition and effectiveness of the transfer of bundles of land rights ('the socio-political dimension'). Concretely, the aim is to explore these two dimensions in specific contexts, as well as the processes of their connection and possible disconnection/reconnection. We will focus on transfers of possessionary or ownership rights (definitive extra-family transfers or transfers without explicit time limitation, including administration rights). It is indeed this type of transfer that is the most illustrative regarding the embedding/disembedding issue.

The *land resource dimension* of (monetarized) customary land transfers relates to the relationships between the actors directly induced by access to and use of land as such. It corresponds to a first level of social embeddedness, mostly involving the beneficiary of the transfer and the assigner (or his family group). One may find here illustrations of the social embeddedness conceptualized by Granovetter (1985), corresponding to the insertion of economic actions in social networks (such as the role of networks in finding land to buy). However, our primary concern here is not with this type of embeddedness, documented in most accounts of market relations. More important for our purpose are the cognitive, cultural and social constructions of objects of exchange (what objects are legitimately transferred?), of parties to exchange (who can legitimately transact with whom?) and of norms of exchange (how do people conceptualize the transactions?) (Zelizer 1988; DiMaggio 1990; Kopytoff 1986; Spillman 1999). In this respect, the transfers of land rights in the situations we are dealing with especially raise the questions of the interpretation given by the actors (and, subsequently, their heirs) of the transactions, regarding: (1) the object of the transaction: the land or the trees planted on that land (coffee, cocoa, rubber or oil palm?); (2) the bundle of rights and duties transferred² (are all land 'sales' outright sales?); and (3) the legitimacy of the transfer from the perspective of the social group of

²The concept of bundle of rights (following Maine 1861) as applied to agricultural land usually helps to distinguish between (1) rights related to the use of the land: use right *stricto sensu*, right to appropriate the return from the land, right to bring long-term improvements; (2) the rights to transfer the preceding rights: temporarily or permanently, through market (land lease through fixed or share contracts, land sale, pledging, mortgaging) or non-market (loan, gift, bequest, inheritance) devices; (3) the administration rights, that is the rights to define others' rights by controlling land access, use and transfer, including therefore the right of exclusion.

the assigner/vendor. In other words, the land resource dimension of monetarized customary land transfers focuses fundamentally on the content and duration of the rights and duties transferred.

The *socio-political dimension* of customary land transfers goes far beyond the rights and duties implicated (usually bilaterally) by land use and access as such. As Africanist anthropologists have emphasized since the 1940s, this dimension is inherent in the fact that rights and duties regarding land are interwoven within the structure of social relations and depend upon the right holder's position in this social structure. However, it has almost always been described within groups based on kinship, descent or common origin, rather than with respect to rights acquired through customary transfers between such groups and outsiders. The settlement of migrant farmers, even though booming throughout the colonial period, was not a major focus and, when taken into account, was addressed from two opposed angles. The first focused on the political affiliation of the strangers *vis-à-vis* the new community and local polity through the lens of kinship (for example, Gluckman 1944). The second dealt with land transfers to strangers as transgressions of customary political structures through the diffusion of monetarized transactions, and underscored the subsequent insecurity bearing on land rights (for example Mair 1956). In the first view, the transfer of land rights to strangers was considered as mechanically linked to the change in their political affiliation. In the second view, the market dimension of the transfer was straightforwardly seen as radically dissociating the land resource from the socio-political dimensions of the transfer. In both cases the socio-political embeddedness of customary transfers was not really documented, leaving room for over- or under-socialized interpretations of the processes at hand: either an overestimation of the mechanical connection between political incorporation and access to land, or an overestimation of the dissolving effects of monetarized land transfers on the political incorporation of the strangers.

We would like to show that the diverging interpretations regarding customary transfers, from *emic* as well as from *etic* viewpoints, do not necessarily correspond to mutually exclusive explanatory models, or to a simple transition phase from customary to 'pure' market land transfers. These divergences may come from a dissociation of the land resource and socio-political dimensions of land transactions. In other words, access to land may become commoditized without extinguishing the socio-political dimension of land transactions. Another point we would like to make is that the dissociation of these two dimensions of land transfers is a specific and always contextualized issue. This has direct consequences on the legitimacy of land transfers as well as on the security of the stranger right holder within the local community.

The case of southern Côte d'Ivoire is particularly interesting. First, because it corresponds to a situation of widespread export agricultural production (Côte d'Ivoire being the world's leading cocoa producer) by small and medium family farms whose access to land

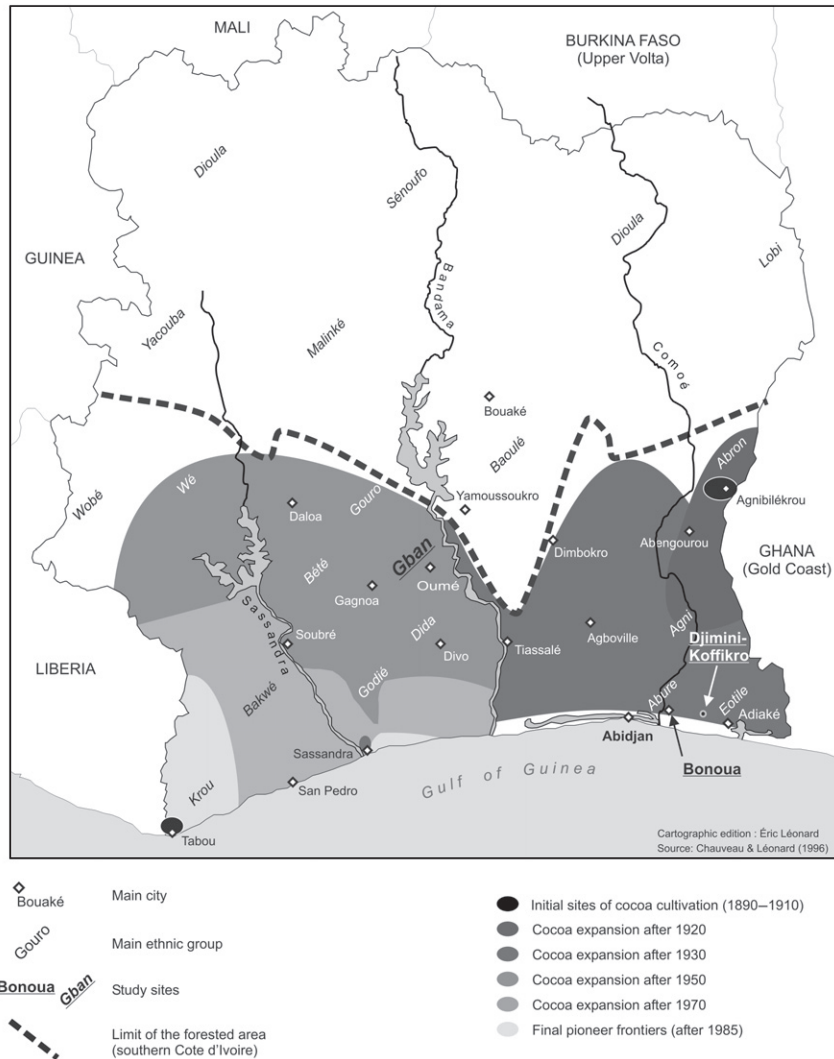


FIGURE 1 Diffusion of the smallholder plantation economy in southern Côte d'Ivoire

is based almost exclusively on customary intra- and extra-family land practices (Ruf 1988). The smallholder coffee and cocoa plantation economy expanded from east to west in forested Côte d'Ivoire (see Figure 1) mainly through the massive arrival of immigrants. These came from regions ecologically unsuited for coffee and cocoa cultivation (Upper Volta – now Burkina Faso – Mali, and the northern and central savannah regions of Côte d'Ivoire, especially the Bawle region), both as wage labourers and also as planters looking for forested land to clear

in order to create plantations. The land transfers between autochthons and migrants (Ivorian or foreigners) have therefore structured the land issue in southern Côte d'Ivoire and the development of monetarized land transactions cannot be disassociated from the relationships between migrants and indigenous actors.

Second, the new land policy (1998 land law) in Côte d'Ivoire aims to identify, recognize and protect rights acquired through customary transfers – but excludes foreigners from land ownership. The 1998 law, which has not yet been officially implemented, bolstered the claims put forward by autochthons that they are the only legitimate holders of property rights. It actually gives priority to customary rights in the process of identifying and certifying land rights prior to their registration. It aims at converting the transfer of land rights between autochthonous *tuteurs* (see below) and foreign buyers, who cannot legally hold property, into a formal long-term lease contract. But it is also quite likely that many settlers of Ivorian citizenship will not be acknowledged as the owners of their plantations by their *tuteurs*. One of the ingredients of the current socio-political crisis³ is precisely the questioning of the right of foreigners to own land, but, more broadly, the questioning by part of the autochthonous population of rights previously acquired by migrants (foreigner or not) through customary transfers, often monetarized.

The article draws upon the authors' long-term ethnographic work in Oumé District, located in the central-western part of the country, and in the Adiaké *sous-préfecture* (lower Côte d'Ivoire). The first location, presented in the following section of this article, reflects a situation where land transfers from autochthons to strangers, even if bearing a monetary dimension, usually occurred for decades through *tutorat*, a deeply socially embedded relationship (see below). This situation allows us to explore the two dimensions of the embeddedness of land sales in the light of a range of intermingled factors: the flows and settlement of strangers; colonial, then post-colonial policies regarding the terms of these settlements; the evolution of the balance of power in the national political arena; and the lessening of the economic opportunities outside the agricultural sector for the rural youth. The second situation, tackled in the subsequent section, corresponds to a former 'no man's land' and thus allows us to explore the embeddedness issue in a situation characterized by the lack of a structuring autochthons–migrants relationship. This situation offers quasi-experimental conditions to analyse land transactions in a situation where the role of *tutorat* in these transfers, and more broadly the autochthon–migrant dichotomy, is absent. Even if atypical, this case is quite revealing regarding the issue at hand.

³ Armed insurgency has affected Cote d'Ivoire since September 2002. A peace agreement was signed on 4 March 2007 by President Gbagbo and Guillaume Soro, chief of the ex-rebels. Its implementation is in progress, but not yet achieved.

THE SOCIO-POLITICAL EMBEDDEDNESS OF MONETARIZED LAND TRANSFERS: *TUTORAT* RELATIONSHIPS IN CENTRE-WEST CÔTE D'IVOIRE

The first coffee and cocoa farms in Oumé District were established in the 1920s by Bawle clerks and migrants and by Dyula traders.⁴ The years of economic recovery, which followed the crisis of 1929–33, saw a new rush of migrants from Upper Volta (mostly Mossis) and the central savannah of Côte d'Ivoire (Bawles). Increased mobility, following the abolition of the Native Code (Code de l'Indigénat) and forced labour in 1947, led to another boom in perennial crops, but also to the arrival of more migrants, especially Bawle, in the sparsely populated forests inhabited by autochthonous Gbans (on whom we will focus) and Guros.

The tutorat relationship: an overview

Encouraged by colonial authorities, the settlement of migrants took place under a common customary institutional arrangement⁵: a patron-client-type relationship we refer to as *tutorat*, from the local French word *tuteur*. This term is commonly used to refer to the customary 'landowners' who, as first-comers (autochthons), concede land administration rights to migrant farmers, locally called 'strangers'. The *tutorat* relationship only concerns long-term transfers of administration rights, especially on coffee or cocoa plantations. It does not concern renting, sharecropping and other short or middle-term transfers of land use rights.

The relationship of *tutorat*, which is commonly found in rural societies in Africa, is precisely an agrarian institutional device for regulating relationships between first-comers and late-comers. It fits into a moral economy principle that considers that any individual or group has a right of access to the means of subsistence for himself and his family. It is clearly in the name of this moral principle that autochthons, before the massive colonizing rush of the 1950s and 1960s, could not refuse 'free' access to land to strangers. The delegation of administration rights on a plot of land by the *tuteur* is inseparable from the stranger's social incorporation in the local community. In turn, the status-based incorporation of the 'good strangers' reinforces the host community politically and economically (Jacob 2007). This incorporation, in the pre-colonial period, took place according to what Shack calls, in a Simmelian sense, the liminal status of the strangers—marginal as well as integral, depending on ritual processes and on the rules governing first-comer and late-comer encounters, in various domains of activity in which they interact (Barth 1969; Shack 1979).

⁴This section draws on Chauveau 2000, 2005, 2006 and 2008; Chauveau and Léonard 1996. See also Crook 1989 and 2001, and Losch 1999.

⁵Despite the efforts of colonial administration, few migrants asked for the indigenous land certificates which, although not corresponding to a formalization of ownership rights, were supposed to protect customary transfers (Chauveau 2008).

In time, and through the effects of a range of political, economic and social factors, the extent of the rights conceded by *tuteurs* and the corresponding obligations of 'their strangers' has varied. In many cases, such delegation of administration rights verges on, and hides, largely monetarized transfers of possession rights. However, the monetarization of the *tutorat* relationship does not erase the social obligation stemming from the 'gratitude' that the migrant (or his heirs) owes to his *tuteur* (or to the latter's heirs) and, more generally, to the indigenous community where he and his offspring live. The *tutorat* relationship endures through the passing of generations. The settlers or their heirs are always able to designate the autochthonous individual or family who granted initial access to land, even in the case of subsequent land sales among strangers. When the original *tuteur* dies, his heir takes over the deceased *tuteur*'s role. In the event that the stranger-guest dies first, the *tuteur* re-actualizes the relation by ceremonially installing the former's heir (who must then 'go' [introduce himself] to the *tuteur* if he did not previously live on that land).

A key point to underline is that the land resource and the socio-political dimensions of the *tutorat* relationship are intimately entangled: as a social institution, the *tutorat* regulates both the transfer of land rights and the political incorporation of the strangers in the local community.

We will organize the discussion of these two dimensions of embeddedness and their interactions in the context of centre-west Côte d'Ivoire following the main historical phases since the 1950s.

The roots of monetarized transfers in the frame of the tutorat relationship

At the end of the 1940s, when a new flow of (especially Bawle) migrants arrived, the plantations amongst the Gban and Guro autochthons generally belonged to 'big men', district and village head men whose close links to colonial authorities gave them access to forced labour. The new influx of migrants was encouraged by the RDA (Rassemblement Démocratique Africain) party and more particularly by its Bawle leader, Félix Houphouët-Boigny. The Bawles settled first on Guro land, then on Gban land, asking local big men for land within the framework of the customary *tutorat*. However, when the first plantations began to produce around the mid-1950s, *tuteurs* asked for substantial fees (*redevances foncières*) in addition to the 'duty of gratitude' owed by Bawle migrant farmers.⁶

The issue took on several aspects, directly linked with the definition of property rights within the autochthonous community. First, a new situation had developed in which land use generated an appreciable monetary surplus for the strangers. The customary principle according to which one cannot refuse free access to land to a stranger in search

⁶In contrast, land fees were not requested from most Dyula migrants. Contrary to most new Bawle migrants, Dyulas had settled much earlier and frequently married Gban women. At that time also some Gban elders and big men were converted to Islam (Chauveau 2005).

of a means of subsistence became inappropriate for the autochthonous *tuteurs*. Thus the *tuteurs*' claim for land fees can be seen as an adaptation of the *tutorat* relationship to a context of commoditization. It was encouraged by the conciliatory position of the colonial administration, concerned with the autochthons' demands. At that time the colonial administration was indeed moving towards a stronger recognition of customary rights (1955 and 1956 decrees). It was opposed by the RDA party, which was the key actor in the move towards the colony's internal autonomy⁷ (see below).

Second, to whom and how should this compensation be given within the local community? As district and village headmen expressed fears of becoming politically dependent on the more numerous strangers and therefore became less willing to cede land to new migrants, the Bawle migrants bypassed them and gained access to land by directly negotiating with the heads of smaller family groups. In Raulin's study (1957), as well as in the files of the *sous-préfecture* of Oumé (Bonnecase 2001), it is clear that in the 1950s the control of land transfers to new migrants was of such value that it gave rise to confrontations between local big men and heads of ordinary extended families. The former tried to monopolize the right to transfer land rights to strangers and the corresponding privilege of collecting the relevant fees. Finally, the latter successfully denied the big men had any political or religious authority to allocate rights involving their own forest reserves.

Third, what form should the migrants' obligatory expression of gratitude take? The chiefs and lineage elders sought to define new rules on the nature and methods of making the migrants pay for land access, in addition to the tokens of gratitude that the migrant owed to his *tuteur*. Autochthons seemed then to favour payment of a type of monetary lump sum, independent of the size of area allocated to the migrants, as a mark of strangers' agreement to give political allegiance to the *tuteurs*' communities. On the other side, the Bawle migrants 'claimed the possibility of acquiring [land] definitively after some type of probationary stage' (Raulin 1957: 58) – in other words, through a temporary *tutorat* relationship.

The time of independence: monetary transfers under political control

The Bawles' protests against the ever-increasing land fees under the cover of the *tutorat* relationship were supported, under the banner of PDCI-RDA (Parti Démocratique de Côte d'Ivoire-RDA), by the emerging Ivorian political elite, a good many of whom had vested interests in large coffee or cocoa farms located outside their home region. A key economic and political goal at independence was the expansion of the western agricultural frontier, a goal whose achievement was to be hastened by loosening the autochthons' claims

⁷ *Régime d'autonomie interne*: a period of internal self-government (excluding matters of defence and external affairs) prior to, and in preparation for, independence.

over the settlers. This was clearly the case in the Oumé region, then one of the most important sites of new planting.

At independence, Houphouët's PDCI won complete political hegemony. It was thus in a position to ignore the colonial 1955 and 1956 decrees which could have led to the recognition of autochthonous rights, and provided a means to address a critical political issue: the strong political embeddedness of the distinction between first-comers and late-comers and its implication for the politics of belonging within local communities. However, as a typical 'peasant state',⁸ despite the PDCI's hegemony the newly independent country faced the major constraint of structural limitations on its ability to anchor its authority, legitimacy and means of action in local micro-politics. Effective 'peasant state' governance exercises hegemony on a shoestring (in Sara Berry's terms): it depends on the control, by the state, of intermediaries who themselves emerge from local peasant societies and provide the link between central authority and local farming communities. In this context, state intervention in the *tutorat* relationship and the *tuteurs*' assertion of their right to collect monetary fees put at risk the local political anchorage of the state itself. The alleviation of the autochthons' claims over the migrants and the political protection of the latter could not be based solely on coercion. The cost and weight of such coercion would have greatly outstripped the means available and the result might have been politically counter-productive.

Consequently, the really decisive interventions on the part of the government and the ruling elite in order to open the western forest belt to settlers did not rely on the implementation of official development plans or legal mechanisms, but on a range of other interventions of a fundamentally political and clientelistic nature whose aim was to delegitimize the systematic monetarization of the land transfers. The alleged under-settlement of the Gban forest and the weak development of the available forest resources were used to justify welcoming brothers in need of land. The moral and cultural reference to the *tutorat* made by the administrative authorities was accompanied by instructions which aimed at closely framing and de-monetarizing its implementation. These instructions (political pressure applied to village authorities to welcome strangers, protection of the latter in case of conflicts) were grounded in the order issued by Houphouët-Boigny himself in 1963: '*la terre appartient à celui qui la met en valeur*' ('the land belongs to those who develop it'). This dictum assumed the force of law, though it completely contradicted the provisions of legislation inherited from the colonial period, and formally forbade the imposition of land fees on the settlers. For the rest, the new independent state left the practical arrangements regarding the transfer of land rights to the increasing

⁸We borrow Spittler's notion of 'peasant state' style of governance and political action (Spittler 1983), which has a lot of affinity with Mamdani's well known notion of decentralized despotism (Mamdani 1996). It refers to a state characterized by a combination of bureaucratic and despotic power, whose local anchorage is weak, and whose primary means of control is based on allocation of access to land and distribution of export crops revenue.

number of migrants largely in the hands of its local political brokers, thus relying on the micro-politics prevailing inside the local multiethnic communities.

From the 1960s to the 1980s: disconnecting the land resource dimensions of monetary land transfers from the socio-political dimension of tutorat

From independence, then, the informal state policy⁹ for controlling the transfer of land rights to migrants took the form of an intermingling of persuasion, coercion, incentives and redistributive clientelism, in accordance with the peasant state style of governance. Positive incentives played a role in the acceptance of the migrants' settlement by individual *tuteurs*. The state pressure in favour of the settlement of strangers brought about dissimulated (non-rebellious) strategies deployed by *tuteurs* in order to circumvent the state's informal regulation of the *tutorat* and to take some advantage of this situation. The 'obligation of gratitude' of the settled migrants provided them with substantial advantages, like larger and more regular cash payments.¹⁰ In particular, through their relation of *tutorat* with autochthonous elders, strangers indirectly supplied a growing part of the schooling and urban migration expenditures of autochthonous youth. As long as land availability allowed the settlement of new migrants, these strategies favoured the segmentation of land control within the extended families and the reinforcement of the bilateral embeddedness of land transfers between *tuteurs* and strangers, to the detriment of the broader integrity of local political authority at the village level. That is, respect for, and allegiance to, the village as a self-governing polity was undermined by clientelism and corruption among local chiefs, civil servants and politicians in the settlement of conflicts between *tuteurs* and strangers, and by the pressure exerted on the village and family authorities to convince recalcitrant autochthons to transfer land rights to migrants.

Progressively, the Gban *tuteurs* circumvented the state's prohibition of land fees by incorporating an increasing monetary component in the initial symbolic gifts that sanctioned the stranger's access to land, and by increasing and monetizing their demands regarding the strangers' subsequent duty of gratitude. That, however, gave rise to competing interpretations concerning the bundle of rights effectively transferred to the settlers. On the one hand, the generalization of transfers of land rights to settlers gradually transformed them into clients, henceforth subject to illegal and clandestine land fees, legitimized by moral obligations. Yet, on the other hand, the tendency to increase and

⁹For a more detailed discussion, see Chauveau (2008). Our interpretation of 'informal state policy' contrasts on some points with those of Crook (2001) and Boone (2003).

¹⁰The land transfers through *tutorat* provided the *tuteurs* and their family groups with another advantage: the settlement of migrants on the areas bordering on the family, lineage or village land reinforced the customary property right *vis-à-vis* nearby families, lineages or villages, or even contributed to justifying customary property rights where they were not clearly recognized.

monetize social obligations in return for transfer of a broad bundle of rights encouraged the idea among the settlers – particularly Ivorian settlers – of having been engaged in a purchase–sale transaction. But in the autochthons' perspective, in no way could the transaction cancel the moral, political and material obligations of gratitude that the settler (or his heirs) owes to his Gban *tuteur* (or his heirs) – even if the Gbans themselves often used the term 'sale' to qualify these transfers.

Despite these competing interpretations and some localized tensions, the advantages (even if very unequally divided) that came with economic growth from the 1960s (due in particular to the agricultural colonization of the country's central-western and western forests) were a major reason for autochthons and other stakeholders to submit to the government policy of agricultural colonization under the guise of an increasingly monetarized relation of *tutorat*. The 'Ivorian miracle' gave the state the means to guarantee fixed prices to farmers, to subsidize imports, and to improve the general standard of living. However, in return, the government expected farmers to submit politically, and allow legitimacy to the state party and its local agents' interference in land matters. This informal pact also included specific compromises between the state party and the Ivorian and non-Ivorian immigrants, including protected access to land in exchange for electoral support (non-Ivorian residents were authorized to vote up to 1990). The compromise also concerned autochthonous young people, whose land access was threatened by monetarized land transfers to settlers. Their support was gained through free schooling, access to urban employment and – at least in theory – assistance once they wished to establish themselves as 'modern farmers'.

Since the mid-1980s: vernacular formalization versus the conflictual reconnection with the socio-political dimension of land transfer

Over the last twenty years, repeated economic, social and political crises have exhausted the basis of the socio-political compromise which underpinned the transfer of land rights to strangers, combining monetarized transactions and moral, political and material obligations of gratitude. In particular, the urban economic crisis and the failure of the model for social progress based on education and urban migration has resulted in a significant return of townspeople, especially unemployed young people, to their home villages (Beauchemin 2001), at the very time when the decrease in cocoa prices and effects of liberalization policy have made local elders more dependent on the rent they are able to extract from the *tutorat* relationship with settlers. The youngsters or townsmen returning to the village exert strong pressure on their family head to recover a portion of the land transferred to migrants, with some of them even trying to intimidate settlers and regain plots by force. Over these last twenty disturbed years, structural tensions within autochthonous families have increased and focused on the distribution, by the family head, of the income from transfers of land to strangers, particularly in order to fund farming, local

off-farm activities and young family members' urban migrations (some young people try to finance their urban migration and, nowadays, their migration to Europe, through the clandestine sale of portions of forest situated far from the village, and even through the sale of family plantations).

Tensions within the *tuteurs*' families in turn fed tensions with the beneficiaries of past transfers, or their heirs. In the past, the bundle of rights delegated to the strangers was broad and approximated a sale in the classical sense, subject to manifestations of respect and gratitude. Today, under pressure from family members, this bundle is considered as exceeding customary norms regarding the delegation of rights on 'ancestral land'. More specifically, strangers' rights to transfer land through *inter vivo* gifts, inheritance or sale¹¹ (which in the past just required notification to the *tuteur*) are now disputed. In these conditions, the death of the initial *tuteur* or settler often favours a renegotiation by the *tuteur*'s heir of the conditions of transfer or a reaffirmation of the *tutorat* relation regarding the settler's heir. This often involves the autochthon's demand for an additional financial compensation. The argument generally used then, especially by young autochthons, is that the price paid by the stranger at the time of the initial land transfer was so low that it did not correspond to a purchase price and that this allowed the stranger to get richer at the expense of his *tuteur*'s family.

In order to try to secure their rights, the 'buyers' often asked for written receipts attesting the transfers. Such receipts are locally designated as *papier* (paper), *reçu* (receipt), *convention de vente* (sale convention), *accord de concession* (concessionary agreement) or just *convention* (see, for example, Koné 2002). This practice already existed but became widespread in the 1980s. This 'vernacular formalization' concerns primarily the *land resource dimensions* of customary land transfers and, principally, the bilateral monetary convention of the transfer between the *tuteur* and the stranger. However, the transferred rights and duties remain largely unspecified in the *papiers*, especially regarding both the content of the rights, the compensation expected from the migrant, or the buyers' and sellers' legitimacy.¹² In particular, they never mention the duty of gratitude (in its different potential manifestations) owed to the *tuteurs*. Concretely, the vernacular formalization of land transfers did not prevent the intervention of autochthonous family members in the relationships between *tuteurs* and

¹¹ Land sales among strangers are common and are usually indisputable outright sales regarding the relation between the seller and the buyer. However, the socio-political embeddedness remains regarding the relation of the new buyer to the original autochthonous *tuteur* or his family.

¹² This lack of specification can be explained by a variety of reasons: making explicit a duty rooted in the moral economy is unthinkable or at least socially reprehensible, local norms make it unnecessary, discussing explicitly detailed aspects of the relationship may be seen as calling into question trustworthiness of the parties, etc. All these elements do not preclude and in fact leave open the possibility of subsequent opportunistic behaviour.

strangers, nor the expectation of the buyers' duty of gratitude. Even if this duty is not mentioned in the *papiers*, there is no doubt that its respect by the buyer remains a strong guarantee of the legitimacy of the past transfer from the perspective of the *tuteur's* family and, more generally, of the autochthonous community. In other words, this 'informal formalization' of the land resource dimensions of the transfers does not insulate the buyer from autochthonous intra-family and intra-community hazards, although it provides the buyer with some evidence of his possession regarding any legal procedure. The existence of *papiers* may play a role in the perception of local (administrative and village) authorities, in case of conflict – such as manifest abuses by *tuteurs'* family members. But, at the village level and through time, the enforcement of strangers' administration rights remains conditioned by the fact that the strangers 'consider' their *tuteur*, his family and the whole autochthonous community – in other words, that they adequately (according to local norms) help them to overcome the difficulties they may face and that they contribute to the village's development and main social events.

The reinforcement of the family embeddedness of land transfers and the perpetuation of the strangers' duty of gratitude, despite the spread of the vernacular formalization, contributed to the generalization of an ambiguous or composite perception of the situation among the actors themselves. On the one hand, the monetarization of land access is generalized, but on the other hand, the security of the transactions always remains subject to clientelist relations. To paraphrase Durkheim, the social non-contractual conditions of the (sale) contract are, in this context, an implicit but integral part of the contract, its negotiation and enforcement through time. For the buyer, the connection between his access to land through a monetary payment and his political incorporation in the autochthonous local polity (*vis-à-vis* the political dimension of land transfers) is, at least potentially, always at stake.

The culmination of the economic and political crisis since the end of the 1990s, with the voting of the new land law in 1998 and the December 1999 coup against the PDCI state, favoured the politicization of the land question at both the regional Gban and national levels. Land transfers benefiting outsiders are now stigmatized on political and ethnic grounds. References to autochthony and the protection of 'traditional' land rights have become an increasingly effective electoral argument. The complaints now addressed towards Burkinabes, Dyulas and Bawles are the same that were addressed towards the Bawle settlers some decades ago. They express, especially during the current civil conflict, the autochthonous perception of a transgression of the principles associated with the socio-political incorporation of the strangers induced by land transfers, monetarized or not: the strangers have become richer and richer, whereas local families are struggling; they invest at home the money they earn locally; they show no interest in village affairs; they no longer respect their duty of gratitude towards the local community; the Ivorian strangers do not

vote for the autochthons' candidates and their numerical importance gives them a political advantage – and so on.

In summary, the monetary dimension of land transfers and their vernacular formalization have strengthened since the mid-1980s. However, this process did not diminish the family, community and political aspects of their social embeddedness but rather came about in parallel with the conflictual reactivation of this embeddedness.

MONETARIZED LAND TRANSACTIONS IN A FORMER NO MAN'S LAND:
FULLY DISEMBEDDED OUTRIGHT SALES?

The second situation we now contrast to the centre-west case is exceptional in the context of southern Côte d'Ivoire.¹³ It is located at the furthestmost bounds of the Anyi kingdom of Sanwi, in the Eotile vassal territory, and not far from the Abure country. What is today the area of the village of Djimini-Koffikro (*Adiaké sous-préfecture*) was part of the kingdom's south-western borderland, isolating the Anyis from the Abures. These lands were free of any human activity at the beginning of the twentieth century. No autochthonous village claimed these lands, and Anyis from Sanwi, or Eotiles, never came to claim rights over these lands after the settlement started. Such a borderland corresponds to a no man's land in terms of land control.

Migrants' initial access to land outside the autochthon–migrant relationship

The first newcomer in the area under study was A. K., an Abure who settled around 1915. Some Bawles and Anyis,¹⁴ mainly, but also some Gbans, Yacoubas and Nzimas started to arrive in the 1920s at a time when the smallholder plantation economy was starting to develop in Côte d'Ivoire. A. K. settled the first newcomers in various parts of the forest – 'settled' in the sense of pointing out the place where they could start clearing the forest and indicating a vague direction to these clearings. Subsequently, these first pioneers, then recognized as 'regulators' of access to the land, in turn settled in their respective sectors the migrants who kept arriving. Access to land rested therefore on two shared principles, which legitimized and regulated the land control and the organization of the settlements: (1) the principle that the anteriority in the arrival creates a legitimacy to regulate the settlement of newcomers; and (2) the principle, commonly found in African contexts, that labour creates the right to land: the clearing of the forest was sufficient to ensure one's uncontested individual right over the land.

The fact that the 'regulators' were acknowledged as those organizing the settlement did not give them rights over the land cleared by

¹³This section draws on Colin and Ayouz (2006) and Colin *et al.* (2007).

¹⁴The Anyis who settled in Djimini do not consider themselves as autochthons – they definitely are strangers in the Sanwi country, as they come from other Anyi groups (Bongouanou and Indénié).

newcomers. They just received the usual bottle of gin, or some litres of *bangui* (palm wine). One does not find here the precedence in arrival as establishing a power relation, a hierarchy then inherited by the first-comers' heirs. All the old pioneers interviewed in the early 1980s said that when they first arrived, 'the land belonged to nobody'. By this, they meant that the Anyis from Sanwi or the Eotiles were living far away, that there was no Anyi or Eotile village claiming these lands. Nevertheless, they knew that they were in Anyi-Sanwi/Eotile country. In our interpretation, this element, combined with the diverse origin of the first migrants, would have radically inhibited any pretension of the first settlers to install an earth shrine and claim on such a ground a control over land.

We see the lack of socially legitimized right over the uncleared forest – the absence of an allodial right which could be invoked to justify a claim – as explaining why one does not find, in this situation, access to land through the *tutorat* institution: there were no autochthonous hosts, and the first settlers did not turn later into *tuteurs* regarding newcomers. That Djimini has no specific land regulation authority (there is no *chef de terre*, no collective rituals provided by the descendants of the first settlers) can be traced to this specific social and historical context of the pioneer phase of smallholder plantation economy.

Outright sales

With the end of the pioneer phase, access to land under the conditions that have just been described no longer operated. From then on, access to land property came from inheritance, *inter vivo* donations or purchase. The land market operated significantly in Djimini, where one third of the total acreage of all land estates has been the object of at least one transaction. The development of land transactions led to modifications of the ethnic balance in land control, numerous purchasers being Malinkes and Senoufos from northern Côte d'Ivoire, Mali and Upper Volta (now Burkina Faso).

The first transactions related to plantations in production. Originally, the land dimension of transactions was thus a by-product of acquiring plantations: 'Before, we used to buy the plantations, not the land', declared the planters interviewed in the 1980s. Land was then in abundant supply and was not yet considered to have an exchange value. Thereafter, from the 1960s, it was the land itself that acquired a market value, with the sale of plots that were fallow or bearing old, unproductive, plantations. In all cases, transactions related to land on which the seller had socially well-established rights of ownership, even if they were not legally recognized.

The fact that Djimini was an immigrant village facilitated the constitution of a land market on two accounts: most pioneers could manage their land patrimonies as they wished because these had not been acquired through customary inheritance, and the return of pioneers to their native village prompted the supply of land on the market. Most land was indeed sold by planters leaving the village to go back home, or by planters' heirs unwilling to settle in Djimini.

The former no man's land character of this area also influenced the content of the transactions. In contrast to what is usually observed in the centre-west, land sales in Djimini can be regarded as complete, as the transaction does not fall in any shape or form within the *tutorat* framework. The transaction corresponds to a transfer of the whole bundle of rights on the land, to an outright sale. In the local context, the fact that the purchaser is discharged from any obligation with respect to the seller is self-evident to all. Furthermore, no trace can be found of any cultural or religious resistance to land commoditization. This commoditization also appears in the development of a lease market, induced by the introduction of pineapple cultivation and the arrival of new waves of migrants from Burkina Faso (Colin 2004; Colin and Ayouz 2006; see also Kouamé's contribution to this issue).

We saw that in the centre-west region, the rights transferred by autochthons to migrants through a monetary transaction remained largely open to the frequent contestations of land transactions when the seller considered that the buyer did not fulfil the duty of gratitude. The contrast with Djimini is striking: there, the questioning of past transactions remains exceptional (only one case over 68 sales), even in the current socio-political and legal context. The absence of an autochthonous claim on the land and the outright character of sales of land largely explain why land ownership rights obtained through monetarized transactions are not questioned.

The reassertion of social embeddedness

In Djimini, the concept of land sales in the common use of the term clearly makes sense. However, two elements reveal the immanence of an embeddedness of land transactions, on both the land resource and the socio-political dimensions – beyond the Granoveterian embeddedness, and beyond the irreducible embeddedness of any market transaction regarding the cognitive, cultural and social constructions of objects of exchange and norms of exchange. First, the safety-net function of land ownership in precarious environments, with the aim of safeguarding the family interest, highlights the role of social constraints on the formation of supply on the land market. The land market in Djimini was very active, but short-lived. With the passing of the generations, the pioneer's individual and private land control (resulting in the possibility to sell) was usually transformed through inheritance into family ownership. The same applies to land acquired on the market, whereby the purchasers' personal property, at their death, tends to be transformed into family property. This helps to explain the almost total closure of the land market over recent decades, whereas there had been a large number of transactions between 1965 and 1975. The ever-stronger perceptions of increasing land scarcity in southern Côte d'Ivoire, and of limited employment opportunities outside agriculture for family members having use rights on the family land, represent a very real obstacle to land sales.

Second, the only case of contestation of a land sale reveals the latent socio-political dimension of land transactions. Thirty years ago, a Bawle

planter sold his plantation to a Burkinabe. In 2001, the seller's son, a retired worker, returned to Djimini and asked the purchaser's heir to sell him back the land at purchase price. The heir refused and the case was taken to the court of Aboisso, before being referred to the court of Abidjan where it was still under investigation. It is, of course, not a trivial matter that the claim was formulated after the vote of the 1998 land law and in a socio-political context that was already tense at that time. The Ivorian landowners in Djimini express two positions with regard to such a case. When a foreigner acquired his land in Djimini by the clearing of the forest, or inheritance on clearing, or by purchase from a foreigner who had himself gained access to the land by being settled by one of the 'regulators', the idea that one may dispute the current owner's right is not considered to be legitimate – a position which goes back to the absence of an indigenous land stake in this context. On the other hand, when a foreigner acquired the land from an Ivorian, the eventuality of a recourse of the seller's children to recover the land is seen to be legitimate. The argument is based on a clear principle: the family should be able to exercise control over the land sale, in a context where the land represents a highly valuable asset and a key resource for the family needs. According to this principle, a sale completed by a relative can be legitimately disputed. In other words, it is not the commoditization of the land as such which is the subject of the dispute – as we saw, the principle according to which land can be sold is never questioned. It is again an intra-family dimension of the land question that emerges: 'my father should not have sold the land; the family needs it, therefore we can legitimately dispute this sale'. At the same time, the conditions for effective application of this principle are shaped (1) by the prevailing legal and socio-political context, the legitimacy principle of challenge of sales being expressed *vis-à-vis* Burkinabe purchasers and not *vis-à-vis* Ivorian ones; and (2) by the fact that most land has been sold by pioneers going back home without leaving family members in Djimini, which *de facto* reduces the risk of such claims being presented effectively.

In a way, the Djimini case provides the exception that confirms the rule: the lack of embeddedness of land transactions in the absence of *tutorat* relationships. However, these market transactions, even if complete, still bear clear social dimensions through the social determinants of the participation in the market and through the socio-political consequences of the land transfers regarding the place of the purchasers in the local society.

CONCLUSION

One may interpret the development of monetarized land transfers in southern Côte d'Ivoire as an illustration of the evolutionary theory of land rights. In a context of growing land scarcity, access to land would shift from the *tutorat* arrangements (in which land transfers are embedded within a broader socio-political relationship and entail a

continuing duty of gratitude and of allegiance toward the customary land holders), to sales (in the sense of monetarized deals that transfer the full bundle of rights and thus do not entail a continuing relationship once the transaction is completed). Such a process of institutional change leading towards land sales, when gifts gradually acquire more tangible value, is often mentioned in African contexts. However, empirical observations show that this may be (and usually is, in the context of the Ivorian centre-west) only one aspect of the process, the most visible where the land resource dimension of monetarized transfers has been isolated, by historical circumstances, from its socio-political dimension (as in Djimini-Koffikro).

The key point we want to highlight is that while conceptually clear differences exist between *tutorat* arrangements and sales, in practice boundaries may be blurred and a more subtle analysis is required with regard to the different dimensions of the potential social embeddedness of these transfers. The centre-west case – of general significance – shows that customary transfers and transactions have to be related to the political, economic and social context of mobility that has been, and still is, characteristic of Ivorian (and West African) history. These results thus highlight the need for an extension of the range of variables that must be considered in an analysis of monetarized land transfers (whether qualified as ‘sales’ or not). The complexity of the question of these transfers in a centre-west context comes from the fact that the institutional change regarding land rights and duties is characterized by two apparently contradictory processes which do not exclude each other: the market flavour of land transfers and the maintenance of their socio-political embeddedness. The analysis reveals the hybrid character of action, the mixed nature of motivations, and the economic, social and political dimensions of the same practices. This shows the persistence of the rural social order, where land not only has a productive function, but also acts as a social catalyst drawing everyone who lives off it into the same moral community. The strangers’ access to land is then mediated by the conditions of integration in a ‘local citizenship’.

The persistence of this social order can be attributed to the particular nexus that constitutes the moral economy of land access, in which property, identity and authority remain entangled (Lund 2002). But it can be attributed also to the fact that state policy about land and intra-rural mobility has itself contributed to the ‘decentralized despotism’ that characterizes the rural order.¹⁵ Indeed, both Houphouët Boigny’s policy in the 1960s (aimed at protecting the new settlers on the west agrarian frontier) and the 1998 land law (protecting the privilege of autochthony) had a major role in the politicization of the connection between the land resource and the socio-political dimensions. Depending on the economic opportunities

¹⁵The persistence of this peasant social order needs to be related, not to specific African cultural traits, but to historical and political factors associated with the post-colonial style of governance and political action *vis-à-vis* the rural communities (Mamdani 1996; Chauveau *et al.* 2006).

outside the agricultural sector for the rural youth, intra-familial issues, the peasant moral economy, and state policy play together to emphasize (or de-emphasize) the connection between the two dimensions of land transfers. One can think reasonably that such a lasting connection would be different if the post-colonial state policy had facilitated rather than discouraging an institutional framework for formalizing land fees (as encouraged by pre-independence colonial policy).

Even if the two situations considered in this article do not pretend to be representative of the whole of southern Côte d'Ivoire, the theoretical distinction between the land resource and the socio-political dimension introduced in the analysis of land transfers allows us to draw some lessons in the current situation in Côte d'Ivoire. First, land relationships largely rely on the widespread conception of the embeddedness of land transfers within socio-political obligations *vis-à-vis* local polities, even if these transfers have a market flavour. The rare exceptions concern situations where no group can claim *tutorat* rights rooted in autochthony. 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. Second, as a consequence, resolving the conflicts linked to land rights transfers does not boil down solely to legal action and land titling. On its own, legal changes such as the 1998 legislation will be insufficient to promote the development of 'modern and secure rights', ostensibly the law's main objective. On the contrary, it is likely that the implementation of the law may increase tensions, not only between autochthons and strangers, but also within autochthonous families. Securing transferred rights requires local agreements based on principles of justice as understood in the autochthonous system of norms. Third, according to the 1998 law, the purchases realized in the past by foreigners should be transformed into long-term lease contracts. The question that will be then raised is the effect of such a transformation (if it effectively occurs) on the two dimensions of the social embeddedness of land transfers we have identified, and on the local security of the contracts.

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ABSTRACT

The article offers an empirical perspective regarding customary land sales in Côte d'Ivoire, focusing on their socio-political embeddedness as well as on the implications of such processes for the content of the rights and duties transferred. Two interlinked aspects of land transfers, which usually come together in African contexts, are to be taken into account: rights and obligations regarding land access and control ('the land resource dimension'), and rights and obligations regarding group membership, and more generally the socio-political dimensions that condition the social recognition and effectiveness of the transfer of land rights ('the socio-political dimension'). These two dimensions are empirically explored, together with the processes of their connection and possible disconnection/reconnection. We show that the diverging interpretations of land transfers, from *emic* as well as from *etic* viewpoints, do not necessarily correspond to mutually exclusive explanatory models, or to a simple transition phase from customary to 'pure' market land transfers. Access to land may become commoditized without extinguishing the socio-political dimension of land transactions. Another point is that the articulation of these two dimensions of land transfers is a specific and always contextualized issue. This has direct consequences on the legitimacy of land transfers as well as on the security of the stranger right holder within the local community and more generally on the politicization of land issue.

RÉSUMÉ

L'article offre une perspective empirique des ventes de terres coutumières en Côte d'Ivoire, en s'intéressant à leur enchâssement sociopolitique et aux implications de tels processus pour le contenu des droits et des obligations transférés. Il prend en compte deux aspects interconnectés des transferts de terres, généralement réunis dans des contextes africains : d'une part les droits et les obligations impliqués dans l'accès à la terre et son contrôle (« la dimension ressource foncière »), et d'autre part les droits et les obligations impliqués dans l'appartenance à un groupe, et plus généralement les dimensions sociopolitiques qui conditionnent la reconnaissance sociale et le caractère effectif du transfert des droits fonciers (« la dimension sociopolitique »). L'article explore ces deux dimensions de manière empirique, ainsi que les processus afférents à leur connexion et leur déconnexion/reconnexion possible. Il montre que les interprétations divergentes des transferts de terres, tant du point de vue *émique* que du point de vue *étique*, ne correspondent pas nécessairement à des modèles explicatifs mutuellement exclusifs, ni à une simple phase de transition d'un transfert coutumier à un transfert de marché « pur ». Une marchandisation de l'accès à la terre peut survenir sans effacer la dimension sociopolitique des transactions foncières. D'autre part, l'articulation de ces deux dimensions du transfert de terres est un sujet spécifique qui s'inscrit toujours dans un contexte. Il en découle des conséquences directes sur la légitimité des transferts de terres, ainsi que sur la sécurité du titulaire de droit étranger au sein de la communauté locale et, plus généralement, sur la politisation de la question foncière.