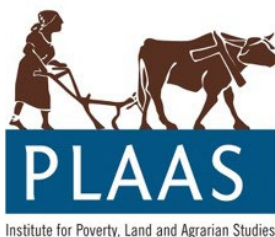


Briefing note from a webinar on

# African land rights in the time of the coronavirus

28 May 2020



# African land rights in the time of the coronavirus


Text by Mark Paterson

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A webinar on “African land rights in the time of the coronavirus” was held by the Network of Excellence on Land Governance in Africa (NELGA) and the Institute for Poverty, Land and Agrarian Studies (PLAAS), University of the Western Cape (UWC), on 28 May 2020 as the first in a series of six monthly online seminars. This virtual meeting brought together civil society activists and academic and government stakeholders to discuss how the Covid-19 pandemic and the national lockdowns launched in response to it have affected land rights, access and governance in Eastern, West and Southern Africa – specifically in Kenya, Namibia, Sierra Leone and Uganda.

The political economy of land governance in Africa has been shaped by incomplete decolonisation and unclear relationships between state and traditional institutions and characterised by struggles around access, security of tenure and accountable governance. Historical and more recent large-scale, land-based investments and/or acquisitions have threatened democratic rights to land, even leading to displacement. Against this background, political pluralism and weak land governance systems have been challenged by the responses of governments across the continent to the spread of the Covid-19 virus. States have reduced their operational capacity and imposed limitations on the movements of people and goods, with significant impacts on vulnerable communities whose rights and access to land are precarious.

Although national experiences of lockdown across Africa have varied widely, they have also indicated some common threads in relation to land issues. Accordingly, within their specific historical, demographic, political and socio-economic contexts, the participants at the webinar considered livelihood and food security issues, including how new pressures on, and patterns of, land use for agricultural and other production have led to contestation and conflict; the extent and kind of land grabs and evictions under lockdown; how the closure of government offices and the courts has affected efforts to assert rights and access to land; and how recent actions to assert control over land have been differentiated by gender. In addition, the nature and impacts of recent migration flows between urban and rural areas were considered, as well as the broad economic impacts of national lockdowns on productive capacity and trade. In addition, the participants discussed the extent to which the present crisis has highlighted and exacerbated the threats posed to rural livelihoods by pre-existing environmental factors, such as drought, and weak governance, such as by governments’ inadequate implementation of overdue land reforms – as well as how these can be mitigated by effective systems of customary tenure and effective documentation and registration of land rights.

 This briefing note is based on a webinar you can watch [here](#).

## **Africa imports the majority of its food.**

At the continental level, the UN Economic Commission for Africa has noted mounting concern among national governments about the vulnerability of their food-supply chains; and moves to try and boost domestic production and secure imports to improve national food security accordingly.

### **Access to land resources under lockdown**

Inputs to support agricultural production in rural areas have shrunk under lockdown as economies have stalled, with relatives in the city in Sierra Leone unable to provide the remittances upon which some peasant farmers have come to depend and surplus revenues that used to be invested in agriculture in Uganda dwindling. As the means to support livelihoods have been restricted, pressures on land as an agricultural resource and to support commerce have grown. In Kenya, as frontiers have been closed – for example, along the Ugandan border by Lake Victoria – fewer livelihood opportunities for men have led to women being locked out of the value-chain of agricultural and fish trading and blocked from marketplaces. In addition, small-scale invasions have occurred, in which neighbours, for example, fell trees on adjacent patches of land in the knowledge that the land-owner may be stuck in the city.

In northern Uganda, as the focus has shifted to subsistence farming due to shrinking agricultural markets under lockdown, contestation over tilling land governed by customary tenure has mounted, leading to at least 36 houses being torched and a number of murders. In Sierra Leone, lockdown restrictions imposed by security forces have prevented people from going to their farms as expected, which has hindered agricultural production.

In Namibia, as the trade in goods and services stalled under lockdown, the impacts on remote rural areas already reeling from the impacts of a recent drought have been severe and compounded livelihood challenges. The resources accumulated from the bottom-up by many small and subsistence farmers have been eradicated, as their livestock – cattle, goats and sheep – have died. Food aid from the government has been too little and too late to prevent them from migrating to urban areas, where there is a shortage of accommodation and services, including sanitation, to settle the new arrivals.

Meanwhile, during the period of the pandemic, a number of those who have been employed in Namibia's capital, Windhoek, in the tourism and retail sectors have sought to return to their home spaces in the communal reserves, equipped with additional resources and livestock. Their efforts to access these spaces as a safety net for livelihoods and activate their land rights have resulted in conflicts in some communities – and may lead to further conflict if the contestation and securing of land rights is not well-managed.

Africa imports the majority of its food. At the continental level, the UN Economic Commission for Africa has noted mounting concern among national governments about the vulnerability of their food-supply chains; and moves to try and boost domestic production and secure imports to improve national food security accordingly. UNECA is seeking to support national govern-

ments by providing a platform for concessional loans to fund their efforts. At the same time, actions to close borders, for example, between Uganda and Kenya; and between South African and Namibia cause immediate local hardship and damage national supply chains and long-term trade cooperation.

## Land rights during lockdown

Marginalised and relatively powerless groups without clearly documented land rights and access to the land they had previously been using to produce livelihoods have been particularly vulnerable under lockdown and during the economic downturn caused by the pandemic. In Northern Uganda, refugees have been displaced and their rations have been cut by 30%

In Sierra Leone, the pandemic and lockdown have reduced income-earning opportunities for many women, reducing them to the role of housekeepers and leading to a surge in domestic violence. During the crisis, limitations on access to decision-making in relation to land matters for women have been exacerbated. In addition, their share of land resources has been reduced.

In Kenya, women who formerly traded in agricultural produce and pastoralist women who rely on subsistence production and/or value-chains within the tourism sector in game parks and conservation areas have been effectively excluded from the Covid-19 economy without compensation and are in desperate straits. Government guidelines for evictions are not



Image: Mirriam Musonda/One Acre Fund

although they can only access relatively little land for subsistence farming. Meanwhile, local men – brothers and in-laws – have been usurping women's land rights, which are recognised under customary law, limiting them to small parcels of relatively unproductive land, which also threatens the well-being of dependent young children.

being followed. In urban areas, landlords have been evicting tenants without offering them the opportunity of a rent holiday during the crisis. Tenants have even been evicted during curfew. The crisis has provided cover for those who have grabbed land to entrench themselves in the absence of operational legal institutions that may be used to call them to account. In some instances, such grabbing has even taken place

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with the support of state actors, who have exploited the absence of due process to remove occupants from land on the grounds that they are “squatters”. In rural areas of central Uganda, despite a national government directive halting all land transactions during lockdown, significant land evictions have been reported.

In Sierra Leone, members of rural communities who may have been deprived of their land and livelihoods as a result of deals struck with large investors and who, as a result, travel to neighbouring chiefdoms and districts every year to farm, have been deprived of this opportunity by lockdown restrictions on movement. In addition, there have been reports of large firms taking advantage of the pandemic to push through land deals that override community land rights and promote environmental degradation.

In Namibia, the Covid-19 crisis has created inequities of access to opportunities both in urban and rural areas. For example, applications to reside in urban areas which are presented by men are processed faster and with greater responsiveness than those lodged by women, who may fail to receive the official acknowledgement that is required to start the process. Meanwhile, in rural areas, tracts of land are being abandoned by those who lack the financial resources to farm, facilitating occupation by migrants from urban areas who are returning with the resources required to acquire extra livestock. In this regard, although in a different context, it is noteworthy that in Zambia that some farmers are selling their land in order to produce income to sustain their livelihoods.

### **Land governance at the time of the Covid-19 pandemic**

The implementation of illegitimate land grabs with the tacit or overt support of the state underlines the importance of independent land rights in general, but particularly at moments of crisis and widespread vulnerability. The issue of unimplemented land rights has been exacerbated under lockdown by state institutions – the courts and government offices providing public services – closing their doors to those seeking support and/or legal remedies. Popular recourse has been further impeded by a weakening of civil society. In Sierra Leone, civil society organisations, which have been hobbled under lockdown, have been slow to assist communities in their negotiations with large-scale land investors. In Kenya, restrictions on movement and meetings as the national government has become more powerful have restricted civil society’s operational capacity.

By contrast, in Uganda, where the courts also have been closed and group gatherings have been suspended, established mechanisms for supporting customary tenure have mitigated some of the worst impacts of rising contestation over land. Indeed, not only has the national government, which has a history of undermining local land rights, largely withdrawn from this arena, it has apparently ceded tacit support to traditional land management institutions, which is anyway an obligation under the state’s official land policy. Thus, notwithstanding lockdown rules banning gatherings, local chieftainships, which by custom have fulfilled this role, are be-

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ing convened and sensitised in how to manage land-dispute scenarios to promote productive agrarian use while meeting the needs of local people on an equitable basis.

However, more broadly across the continent, although the present crisis has highlighted the failure of national governments to establish and implement robust legal frameworks and institutions for protecting land rights, it seems that there is little prospect of a sea change in their approach. Indeed, rather than focusing on the delivery of land rights by promoting strong tenure for citizens, national governments have prioritised the food sector and are seeking to increase agrarian production on land. Such efforts are likely to lead to greater demand for land, which is of particular concern for vulnerable communities whose rights are precarious – and an increasing number of conflicts may be sparked as a result.

In Namibia, it is feared that the relatively wealthy will grab more land and the poor will continue to abandon land and flee to urban areas, unless the response to the Covid-19 crisis includes implementing the provisions of the [Second National](#)

[Land Conference](#), which was held in October 2018. While in Uganda, a key concern is that the suspension of the documentation of land rights by donors and supporting agencies such as the United Nations Human Settlements Programme (UN-Habitat) is exacerbating persistent conflicts affecting those who have not acquired customary certificates of titles for their landholdings. One of the possible solutions to this land-justice gap in Uganda, Kenya and elsewhere would be to digitise land registries, offering a more accessible form of land rights which could lead to greater resilience in the face of crisis. African governments have previously resisted such moves on the grounds of expense, although their opposition may also be attributed to vested interests in land ministries which would be damaged by the transparency that such digitisation may bring. The move to online work across the continent under lockdown has delivered an opportunity to push more effectively for digital documentation, although it is important that the process should be an inclusive one, acknowledging and responding to concerns over the risk that certain land rights can be excluded by distilling complex customary rights into documented forms.

## Key messages

- Political pluralism and weak land governance systems have been challenged by the responses of governments across the continent to the spread of the Covid-19 virus. States have reduced their operational capacity and imposed limitations on the movements of people and goods, with significant impacts on vulnerable communities whose rights and access to land are precarious.
- Inputs to support agricultural production in rural areas have suffered under lockdown as economies have stalled, with relatives in the city unable to provide the remittances upon which some peasant farmers have come to depend and surplus revenues that used to be invested in agriculture dwindling.
- As the trade in goods and services has stalled under lockdown, the impacts on remote rural areas already reeling from the impacts of a recent drought have been severe and compounded livelihood challenges. Lockdown restrictions imposed by security forces have prevented people from going to their farms as expected, which has hindered agricultural production. Food aid from the government has been too little and too late to prevent the migration of many members of rural communities facing destitution to urban areas.



Image: Luc Gnago/Reuters

# “ Lockdown restrictions

imposed by security forces have prevented people from going to their farms as expected, which has hindered agricultural production.”

- As the means to support livelihoods have been restricted, pressures on land as an agricultural resource and to support commerce have grown. As the focus has shifted to subsistence farming in some areas due to shrinking agricultural markets, contestation over tilling land governed by customary tenure has mounted. Homes have been torched, people have been killed and land has been invaded.
- Economic pressures have led to increased migration to and from cities. In Namibia, relatively wealthy urban residents have sought to return to their home spaces in the communal reserves. Their efforts to access these spaces as a safety net for livelihoods and activate their land rights have resulted in conflicts in some communities – and may lead to further conflict if the contestation and securing of land rights is not well-managed. Meanwhile, pressures on urban land and services have increased as rural migrants flock to the cities.
- The pressures on land are set to be exacerbated by national governments, which, fearful for their food security, have prioritised efforts to import food and increase agrarian production on land. The increased demand for land is of particular concern for vulnerable communities whose rights are precarious, and may lead to an increasing number of conflicts in the absence of clear land rights.
- The Covid-19 crisis has created inequities of access to opportunities both in urban and rural areas. For example, applications to reside in urban areas which are presented by men may be processed faster and with greater responsiveness than those lodged by women. In rural areas, tracts of land are being abandoned by those who lack the financial resources to farm, facilitating occupation by wealthier migrants returning from urban areas who may be equipped with the required inputs.



- Marginalised and relatively powerless groups without clearly documented land rights and access to the land they had previously been using to produce livelihoods have been particularly vulnerable under lockdown and during the economic downturn caused by the pandemic. Refugees have been displaced; and migrant farmworkers have been deprived of livelihood opportunities by lockdown restrictions on movement.
- Women are being locked out of the value-chains of agricultural and fish trading; blocked from marketplaces and deprived of their fair share of land resources. Men have been usurping women's land rights, which are recognised under customary law. Limited income-earning opportunities for many women has reduced them to the role of housekeepers, leading to a surge in domestic violence. Limitations on access to decision-making in relation to land matters for women have been exacerbated. In addition, pastoralist women who rely on subsistence production and/or value-chains within the tourism sector in game parks and conservation areas have been effectively excluded from the Covid-19 economy without compensation.
- The crisis has provided cover for those who have grabbed land to entrench themselves in the absence of operational legal institutions that may be accessed to call them to account. Government guidelines for evictions are not being followed. Large firms have reportedly been taking advantage of the pandemic to push through land deals that override community land rights and promote environmental degradation.

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of the value-chains of agricultural and fish trading; blocked from marketplaces and deprived of their fair share of land resources.

- The implementation of illegitimate land grabs with the tacit or overt support of the state underlines the importance of independent land rights in general, but particularly at moments of crisis and widespread vulnerability. The issue of unimplemented land rights has been exacerbated under lockdown by state institutions – the courts and government offices providing public services – closing their doors to those seeking support and/or legal remedies. Popular recourse has been further impeded by a weakening of civil society.
- In some cases, established mechanisms for supporting customary tenure, with the apparent tacit support of national governments, have mitigated some of the worst impacts of rising contestation over land.
- A key concern is that the suspension of the documentation of land rights is exacerbating persistent conflicts affecting those who have not acquired customary certificates of titles for their landholdings. One of the possible solutions to this land-justice gap would be to digitise land registries, offering a more accessible form of land rights which could lead to greater resilience in the face of crisis among vulnerable communities. ●



# About this webinar

PLAAS offers a short course on “The Political Economy of Land Governance in Africa” through NELGA, which was established under a programme run by the African Union (AU), United Nations (UN) and the African Development Bank (AfDB). In the past year, the training has been provided to 95 practitioners and scholars from 26 countries across the continent to help them to improve land policy-making and administration at the national and regional levels. In recognition of PLAAS’s contribution, the institute’s host university, UWC, has been incorporated as a “special” node into NELGA’s pan-continental network, which features five other university hubs in North, West, Eastern, Central and Southern Africa.

The webinar was moderated by Professor Ruth Hall, PLAAS, and addressed: by Dr Joan Kagwanja,

Chief of Agriculture and Business Enabling Environment and Coordinator of the African Land Policy Centre, United Nations Economic Commission for Africa (UNECA); HRH Drani Stephen Izakare, Spokesperson, Forum for African Traditional Authorities, Uganda; Fatmata Fouard-Kanu, Programme Officer, Namati, Sierra Leone; Bernardette Muyomi, Founder, African Grassroots Development Organisation, Kenya; and Bernardus Swartbooi, Member of Parliament and Leader, Landless People’s Movement, Namibia.

The four speakers reporting from these countries are all alumni of the NELGA short course held by PLAAS.

