

Land Rights in Sub-Saharan Africa

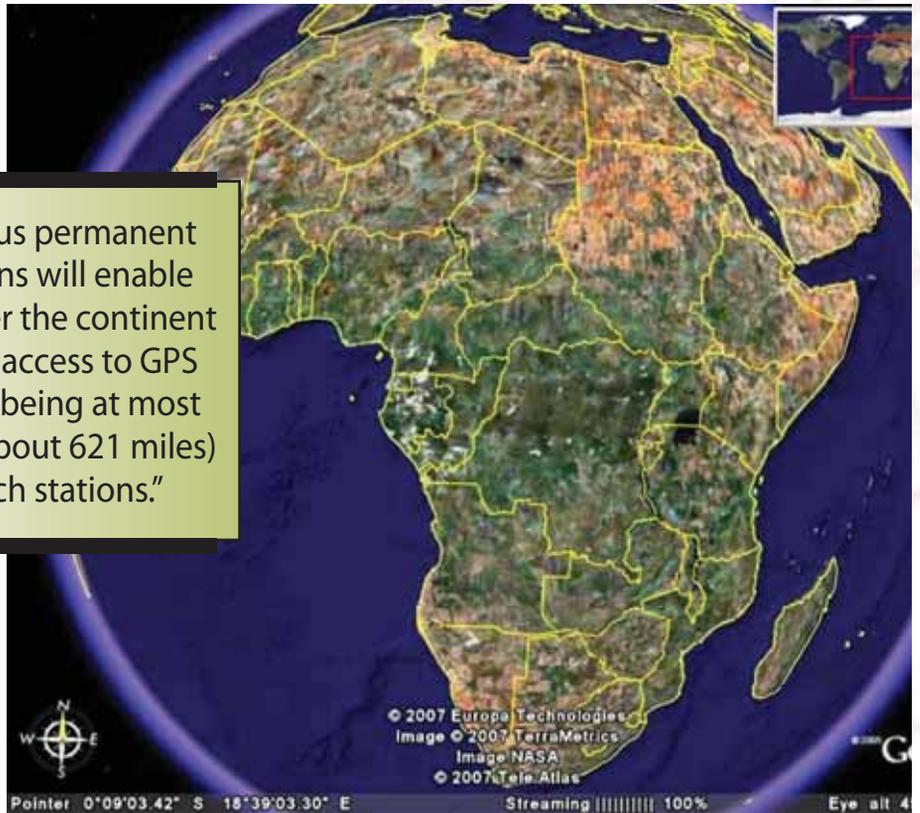
Start up Google Earth, zoom in on Africa, make sure you've ticked "borders," and you'll see how surprisingly often national boundaries all over the African

continent correspond either with natural features such as rivers or with parts of the geographical grid: meridians and parallels. And African national boundaries have done so since 1885, when the colonial powers consolidated their dominion upon the African continent in territorial terms

as a result of the Berlin Congo Conference of 1884-1885. Fourteen European nations participated in this conference, the main players being Belgium, France, Germany, Great Britain, Italy, Portugal, and Spain. Not one African nation was represented.

The configuration of African national boundaries has undergone little change since. The hodgepodge of natural and geometrical borders blended on European drawing boards fragmented 1,000 indigenous cultures, divided what was once united, and merged what had been separate. "The northern boundary will

"Continuous permanent GPS stations will enable users all over the continent to get free access to GPS data while being at most 1,000 km (about 621 miles) from such stations."



▲ Google Earth view of Africa

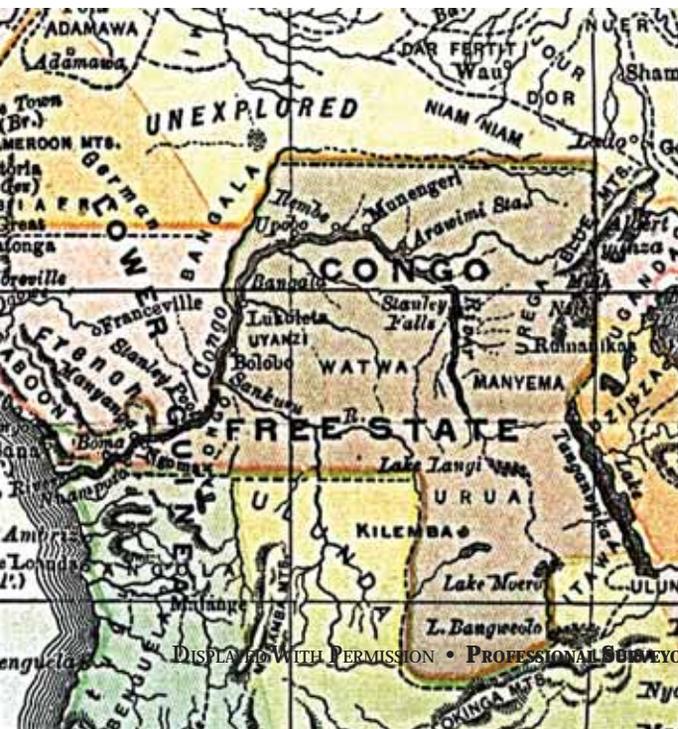
follow the parallel situated at 2:30' from the coast to the point where it meets the geographical basin of the Congo": that was how the tone was set at the outset of general enactment of the Berlin conference.

Anachronisms

No sooner had they implemented their map of political boundaries but European nations imposed laws and decrees on the African continent. Incorporated legal systems of land ownership ignored the fact that for

most African peoples land is owned in lieu of ancestors and successors, which leaves no space for individual ownership and genuinely leads to a complex of communal rights. Instead, colonial decrees proclaimed that land with ownership that could not be proven by documentary evidence was henceforth the individual property of the sovereign. And so, it could happen that Leopold II, King of the Belgians, privately owned a major part of Congo, called Congo Free State.

This state of affairs continued for over thirty years up to 1908, when the country, which is today called Democratic Republic of the Congo, came under direct rule of the Belgium government. And, how cynically, right up until recent times customary tenure systems have in many African countries enjoyed no legal recognition; rather, they have been seen as an anachronism.



◀ A map showing Congo Free State, more than thirty years the private property of Leopold II, King of the Belgians from 1865 to 1908



▲ A view of a cadastre archive in an African country. Obviously there is much room for improvement to arrive at secure tenure (courtesy: International Institute for Geo Information Science and Earth Observation, ITC, the Netherlands)

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Terra Nullius

According to Professor Okoth-Ogendo, expert in public law at the University of Nairobi, Kenya, from the beginning of the 20th century until relatively recently land in Africa was considered *terra nullius* thanks to a complex system of foreign property law that failed to recognize customary land tenure systems. Professor Okoth-Ogendo told the workshop on Land Tenure Security for Poverty Reduction in Eastern and Southern Africa held in Kampala, Uganda in 2006 that until today in many African countries the great majority, meaning on average 90 percent, of land remains under customary tenure.

Secure Property

And today, in Africa and more specifically sub-Saharan Africa, millions upon millions are still suffering severe poverty, and that poverty mainly has a rural face. How can this be combated? It is generally agreed that access to land and security of tenure lie at the core of inhibiting rural poverty. Secure property rights will

encourage investment, generate better credit access, and provide a kind of insurance when times get bad and a pension upon reaching a venerable age. According to the 2003 World Bank Policy Report *Land Policies for Growth and Poverty Reduction*, “for most of the poor in developing countries, land is the primary means for generating a livelihood and a main vehicle for investing, accumulating wealth, and transferring it between generations. Land is also a key element of household wealth.”

Traditional Security

The same document further recognizes that “secure land tenure facilitates the transfer of land at low cost through rentals and sales, improving the allocation of land while at the same time supporting the development of financial markets. Without secure rights landowners are less willing to rent out their land, which may impede their ability and willingness to engage in non-agricultural employment or rural-urban migration.” In the wake of these insights come eager

attempts at introducing tenure systems, and those implemented have a proven security record in developed countries.

At the heart of western systems lies the tacitly agreed premise that individuals who have rights to land can be identified and physically pinpointed. There is no room here for such abstractions as ownership by a vaguely defined group, the individual members of which often cannot be physically identified, may be not even be yet born, and in which types of right may vary depending on degree of membership or gender. Once upon a time, customary tenure systems provided sufficient security for all members of the group, but traditional security, erased by colonial decree and law, has never restored.

Lessons Learned

In the meantime, lessons have been learned; some were summarized during the 2006 Kampala conference and include the following.

- Formal titling is not only expensive but also fails to capture customary rights because these are location-specific. They should therefore be developed in a decentralized way and in situ, an approach that would also help to protect the rights of the poor and the vulnerable. Neither does formal titling necessarily lead to improved security or greater investment.
- Land is a key generator of conflict, and registration alone will not prevent this. Formal courts alone do not suffice to resolve land disputes; essential, rather, is recognition of diverse and often overlapping claims.
- Broad stakeholder participation and home-grown leadership are both prerequisite at all levels.
- However, the state as leader has often proved a less than trustworthy partner and a bad shepherd. Complaints about the ‘grabbing’ of public land are widespread, and just as endemic is neglect of regulations, whether due to lack of capacity and resources or sheer unwillingness.

State land institutions, local government and communities need therefore to strengthen capacity, and for this investment is needed in higher education and training. So much for the lessons learned.

Reliable and Timely

The skeptic might ask what relief will be afforded by solutions blended on the drawing boards of Washington, D.C. or Brussels, the blemishes of intervention having become so evident since 1885. The retort? After more than four decades of independence not even the glimmer of stable leadership has yet arrived on the horizon for most African countries. In the meantime Africa remains weakly mapped, and only few African countries have maps in place to support development. The United Nations (UN) has acknowledged the severe lack of geo-information in Africa over the years and the important role of maps in combatting poverty.



▲ The Kenyan minister of natural resources, environment and lands and his delegation assembled around the first AFREF permanent GPS station in Kenya. Joel van Cranenbroeck (second from left) from Leica Geosystems, which supports the project, explains the working and benefits.

Furthermore, “to arrive at sustainable development and social equity it is necessary to establish proper tenure systems,” as Dr Anna Tibaijuka, UN under-secretary-general and executive director of UN-Habitat told us. The African Union sees the availability of proper statistics as crucial for the continent.

According to the African Union Commissioner for Economic Affairs, Maxwell Mkwezalamba, the issue of statistics can not be overstated. “In Africa we have problems of data. Data is not reliable, is not timely. And therefore this is one area that we need to focus on.” Also the World Bank recognizes that above all there is a huge need in Africa for reliable and timely data.

African Reference Frame

Which initiatives are undertaken to improve availability and accessibility of geo-information? Creation of maps, putting cadastres in place, and storing geo-information in databases has to be built on a unified foundation called geo-

detic reference system. As all African countries have started embracing applying Global Navigation Satellite System (GNSS) technologies, the African Reference Frame (AFREF) initiative has been set up to establish a 3D GNSS framework for the entire continent fully consistent with the International Terrestrial Reference Frame adopted by the International Association of Geodesy. The network will include a unified vertical datum and supports a precise African Geoid. After implementation, continuous permanent GPS stations will enable users all over the continent to get free access to GPS data while being at most 1,000 km from such stations.

One reference system for the whole continent will ease cross-border mapping and will also be a major springboard for fruitful development of sub-Saharan Africa. In August 2006, Purdue University, in collaboration with NASA/JPL and the University College for Land and Architectural Studies, Dar es Salaam in-

stalled a permanent GPS station in Dar es Salaam, Tanzania. The inauguration of the first AFREF permanent GNSS reference station in Kenya took place March 2007 (photo below left).

Capacity Building

Other recent initiatives aimed at accelerating the pace of geo-information production is Mapping Africa for Africa (MAFA) and African Resource Management Satellite Project (ARMS). Initiated by African National Mapping Agencies (NMA) and the International Cartographic Association, MAFA wants to provide the fundamental geo-information for sustainable development. ARMS, a project for Earth observation from space jointly instigated by South Africa, Nigeria, and Algeria, wants to achieve the same. Nigeria is a main contributor through NigeriaSat-1.

Effective use of geo-information requires knowledgeable and skilled users. Consequently, capacity building and knowledge sharing are key in most aid programs. Noteworthy is that NMAs in the North have agreed to establish a web-based knowledge portal, which is currently being populated. NMAs in Africa and elsewhere are being asked to provide input at www.agirm.org.

Nevertheless, all today's humanitarian aid and support to the African continent from the North and the West would be all in vain as long as African governments do not recognize maps, and geo-information in the broadest sense, as key national assets. ♡

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