

RESEARCH ARTICLE

Time and title deeds in post-reform agrarian Kenya

Angelique Haugerud¹ and Caroline P. Mwangi²

¹Rutgers University, New Brunswick, NJ, USA and ²Loyola University Chicago, Chicago, IL, USA

Corresponding author: Angelique Haugerud; Email: haugerud@anthropology.rutgers.edu

Abstract

The ‘title deed fix’ – resurgent globally since the 1990s – is part of a wave of market-led agrarian reforms whose outcomes have been mixed. Kenya was the first African country to experiment – starting six decades ago and continuing today – with state-mandated formal land registration and private titling. Today it is among a handful to begin a transition to a digitized land registry. Behind both paper and electronic land documents, however, is a persistent temporal fiction that undergirds state-backed title registries – namely, a constructed present that is out of sync with intersecting biographical and structural temporalities, and that can efface socially recognized pasts, commitments or testimonials. We analyse some consequences of those temporal dissonances, unstable rights durations, and an ensuing limbo that can last decades, through family land stories shared with us during long-term ethnographic research in Kenya’s fertile central highlands. Especially vulnerable to temporal erasure and dispossession when title deed limbo spans decades are divorced or single women and their children, particularly as farmland and non-agricultural employment become more scarce and land markets overheat. Multitemporal family narratives powerfully illustrate why title deeds of any age are best taken as provisional truths rather than legal certainties, and why tenure security is an unstable and reversible process rather than a present or absent condition.

Résumé

La « solution aux titres de propriété », résurgente à l’échelle mondiale depuis les années 1990, s’inscrit dans une vague de réformes agraires à l’initiative du marché dont les résultats ont été mitigés. Le Kenya est le premier pays africain, depuis six décennies et jusqu’à aujourd’hui, à expérimenter l’enregistrement formel des terres mandaté par l’État et l’attribution privée de titres de propriété. Il est aujourd’hui l’un des rares pays à entamer une transition vers un cadastre numérisé. Derrière les documents fonciers papier et électroniques se cache cependant une fiction temporelle persistante qui sous-tend les registres fonciers soutenus par l’État, à savoir un présent construit qui est en décalage par rapport aux temporalités biographiques et structurelles croisées, et capable d’effacer les passés socialement reconnus,

© The Author(s), 2024. Published by Cambridge University Press on behalf of the International African Institute. This is an Open Access article, distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives licence (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided that no alterations are made and the original article is properly cited. The written permission of Cambridge University Press must be obtained prior to any commercial use and/or adaptation of the article.

les engagements ou les témoignages. Les auteurs analysent certaines conséquences de ces dissonances temporelles, de l'instabilité des périodes de droits et du vide juridique qui s'en suit, parfois pendant des décennies, à travers des histoires de terres familiales recueillies au cours de recherches ethnographiques à long terme sur les hautes terres fertiles du centre du Kenya. Les femmes divorcées ou célibataires et leurs enfants sont particulièrement vulnérables à l'effacement temporel et à la dépossession lorsque le vide juridique autour des titres de propriété subsiste pendant des décennies, en particulier à mesure que les terres agricoles et les emplois non agricoles se raréfient alors que le marché foncier est en surchauffe. Les récits familiaux multitemporels illustrent avec force pourquoi il est préférable de considérer les titres de propriété de tout âge comme des vérités provisoires plutôt que comme des certitudes juridiques, et pourquoi la sécurité d'occupation des terres est un processus instable et réversible, plutôt qu'une condition présente ou absente.

Resumo

A 'correção do título de propriedade' – ressurgida a nível mundial desde a década de 1990 – faz parte de uma vaga de reformas agrárias orientadas para o mercado, cujos resultados têm sido mistos. O Quênia foi o primeiro país africano a experimentar – começando há seis décadas e continuando até hoje – com o registo formal de terras e a titulação privada exigidos pelo Estado. Atualmente, é um dos poucos países a iniciar a transição para um registo fundiário digitalizado. No entanto, por detrás dos documentos fundiários, tanto em papel como electrónicos, existe uma ficção temporal persistente que está subjacente aos registos de propriedade apoiados pelo Estado – nomeadamente, um presente construído que não está sincronizado com as temporalidades biográficas e estruturais que se cruzam e que pode apagar passados, compromissos ou testemunhos socialmente reconhecidos. Analisamos algumas consequências dessas dissonâncias temporais, durações instáveis de direitos e um limbo que pode durar décadas, através de histórias de terras familiares partilhadas conosco durante uma pesquisa etnográfica de longo prazo nas férteis terras altas centrais do Quênia. As mulheres divorciadas ou solteiras e os seus filhos são especialmente vulneráveis ao apagamento temporal e à desapropriação quando o limbo dos títulos de propriedade se prolonga por décadas, sobretudo à medida que as terras agrícolas e o emprego não agrícola se tornam mais escassos e os mercados fundiários aquecem. As narrativas familiares multitemporais ilustram de forma poderosa a razão pela qual os títulos de propriedade de qualquer idade devem ser considerados como verdades provisórias e não como certezas legais, e a razão pela qual a segurança da posse é um processo instável e reversível e não uma condição presente ou ausente.

'This land is like a riddle with no answer!' declared Wanja, a resourceful Kenyan woman in her thirties, in 2020.¹ Who held the registered title to the land in question – one parcel in a mosaic of small family farms in Mount Kenya's verdant south-eastern foothills – was not in doubt. Nyaga, a kindly man in his seventies who lived on a different farm a few kilometres away, was listed as the formal legal owner of the land on which Wanja's mother (his agnate, Muthoni) had lived and cultivated for decades. That ostensible title deed reality, however, was meant to be a stopgap measure. Instead, it endured for decades and became the focus of turbulent waiting, contested

¹ All research participant names are pseudonyms.

assumptions, complex histories, and – for Muthoni and her children especially – a very uncertain future centred on expectations rooted in a delicate domestic micropolitics of waiting. Wanja's questions to Muthoni about the farm's past and future sometimes brought tears to her mother's eyes.

Title deed limbo is one way to label their experience, and those of some other families we have known through multiple research visits to Kenya's central highlands since the 1990s. To understand that limbo, and post-reform Kenyan land dynamics more broadly, it is helpful to widen the analytic frame to include discordant temporalities at varying scale:² how formal title deeds become out of sync with biographical time, local land histories, techno-bureaucratic time and structural time. That framing undoes a familiar dichotomous understanding of tenure security as present or absent, as well as the assumption that secure title is a socio-legal evolutionary stage on the way to an imagined state of agrarian market efficiency. Tenure security, even in areas where titling occurred decades ago, is better understood instead as an uncertain and lengthy quest that is prone to reversals, detours and ambiguity. How can we understand the making and consequences of the ensuing limbo?

Time is a growing focus of recent scholarship on social theory, development, law and feminist and postcolonial thought (e.g. Grabham and Beynon-Jones 2019; Bryant and Knight 2019). That theme is subtly present in contemporary analysis of land relations in Africa – as in a special issue of this journal, where Lund and Boone (2013: 2–3) emphasize that 'contestation over land and resources' often yields 'temporary and contingent outcomes [and] ... involves struggles not only over land per se, but also over the legitimate authority to define and settle land issues ... [and] who has the political power to impose one interpretation at the expense of others'. Land tenure reform initiatives, however, often 'assume the separate and settled existence of property, of citizenship, and of the state' (*ibid.*: 1).

In a complementary framework, here we consider a temporal fiction that undergirds state-backed land title registries – namely, a constructed present that can efface socially recognized pasts, commitments or testimonials, and that produces, as Keenan (2018: 157) puts it, 'a temporal order that is out of sync with the multiple durations of time experienced by those actually living on the land'. At the moment of first registration, some observers say, land title deeds are 'conjured up' in a way that is 'akin to magic', obliterating or ignoring a land parcel's social history or any information that might threaten a new title-holder's stake in it (*ibid.*: 145). In this way, state-issued land titles – introduced in haste in the global South rather than gradually as in England – re-temporalize or reset the present. How that temporal dissonance is experienced, and how it is connected to social reproduction and inequalities of wealth and gender, is our focus.

We begin with national techno-bureaucratic land temporalities, including pending digitization of land records, followed by a sketch of our research setting and long-term ethnographic research in Embu County, in Mount Kenya's agriculturally productive south-eastern foothills, where the state issued official title deeds as colonial rule was winding down in the late 1950s and early 1960s (Okoth-Ogendo 1991;

² Temporalities connote how time is perceived, experienced or socially organized.

Swynnerton 1954; Sorrenson 1967).³ We then examine time dimensions of family land dilemmas, contrasting the experiences of two extended families we have known for decades. In addition to domestic temporalities of title deed tensions and intergenerational strategies, we consider creative reckonings, agility and practices of forethought and care that soften or avert familial conflict over land. We highlight the particular precarities of daughters as we situate family micro-histories in relation to structural tempos of rising land values, intensifying demographic pressure, and the vanishing safety valve of a land frontier.

Techno-bureaucratic land temporalities and digital futures?

Land title registration – a widespread type of land tenure reform sometimes termed the ‘formalization fix’ (Dwyer 2015) – is now global. In techno-bureaucratic time, individual title registration has been resurgent in worldwide market-led agrarian reforms since the 1990s, and an earlier wave of such reforms occurred in the 1960s (Feder and Noronha 1987; Ghertner and Lake 2021; Lahiff *et al.* 2007; World Bank 2003). More than US\$2.5 billion have been spent on land titling initiatives (often promoted by international financial institutions and bilateral aid agencies) during the past two decades (Tseng *et al.* 2020: 1). Furthermore, the international community, McAuslan (2013: 229) writes, has pushed ‘a homogenization of national land laws based on the Anglo-American legal model to facilitate an international land market’. He adds that the ‘World Bank has, quite simply, won; land markets [and individual title registration] are the preferred official national approach to land management’ (see also Hall 2013).

That putative victory, however, is fraught – not only because formal titling and land market expansion benefit some and harm others, and because titling programmes are expensive to establish and maintain, but also because scholars have shown that formal land titles (contrary to planners’ intentions) cannot be equated with tenure security (Hall 2013; Tseng *et al.* 2020).⁴ Better tenure security for one, as Shipton writes, ‘usually means lowering it for someone else – even and especially a titleholder’s close kin, and women and children in particular, who may have little effective say over whether a holder sells or mortgages away a title to the land *they* work and live on’ (Shipton 2009: 235). Any analysis of tenure security, as Shipton and Goheen (1992: 316) put it, ‘must always ask, *which* rights are made secure *for whom?*’ – to which we would add, secure rights *for how long?*

Temporal insecurity – here prolonged unpredictability about the time dimension of land rights or title deeds – warrants closer attention. The duration of particular land rights in a bundle of rights is often unspecified or contingent, and, for a variety of reasons, local perceptions of tenure security rise and fall, even where farmland has been officially registered for decades. A long-promised title deed transfer to a family member – after years of waiting – may never occur at all. A title promised to a divorced sister can prove elusive if competing interests in ancestral land among male

³ Titling came later (beginning in the early 1970s) to the lower-altitude parts of what is now Embu County, in the former Embu District’s Mbeere Division (see Brokensha and Glazier 1973; Glazier 1985; Hunt 2005; Njeru 1978).

⁴ See Paller (2019) on emergent forms of security without title in urban Ghana.

kin eclipse hers. A patriarch in financial distress may sell off long-treasured lineage farmland in fragments, and sons or daughters who expected to inherit it may become landless or move to cheaper and less productive lands. Over the years, apparent security can become uncertainty and eventually distress.

As we look beneath ostensible title deed certitude, our aim is not to urge that official land titles be abolished. Instead, we highlight an underlying limbo whose slow processes and uncertain outcomes are rooted partly in small domains of agrarian family life, and are shaped by larger-scale economic and administrative processes, as well as by cultural principles such as enduring belief among some that farmland belonging to a deceased ancestor should not be an alienable commodity at all because it embodies moral obligations among family members both living and deceased.

An ethnography of temporalities that elude or are out of sync with the techno-bureaucratic time of official title registries highlights vital socio-political relationships in which land rights are embedded, and calls to mind Max Gluckman's (1965: 46) oft-quoted statement that '[p]roperty law ... defines not so much rights of persons over things, as obligations owed between persons in respect of things'. In recent works, Peluso and Ribot have spotlighted how property 'access theory shows [that] rights may be guaranteed but they are not always accessible ... [and] mechanisms of access [are] ... relations of power' (2020: 302, 300). Who demonstrates the power to exclude and who exerts leverage in competition, conflict and negotiation are deeply consequential matters that can stretch across years and that are embedded in what Bryant and Knight (2019: 2), in a different context, term 'entangled but separable temporalities'.

Property rights' uncertainties and contingencies, and the well-documented gap between *de facto* and *de jure* land rights and access,⁵ are not necessarily about strong versus weak states. Partly strategic rather than inadvertent, such unsettledness can be taken to illustrate, as Lund (2008) argues, the power of the idea of the state and its recognized authority, even alongside limits on governance capacity or enforceability. Irregular practices carried out with bureaucrats' cognizance or complicity can help to sustain rather than weaken a state apparatus (Li 2005: 390), as officials collude or compromise with the powerful and wealthy, or with others who may find illegibility advantageous in their land accumulation strategies (see Edelman 2013: 496; Scott 2005: 399). Outcomes can take the form of what Bolt (2021: 978) in a different setting terms 'fluctuating formality', or formality that is fragmented, fraught, flexible, 'vulnerable to manipulation and evasion'. In the global North as well, Nyamu-Musembi (2007: 1460) sees 'the messiness of informality' and the ambiguity of land titles.

Scholars have shown that tenure security is not necessarily linked to investment or enhanced agricultural productivity – a policy assumption some abandoned in the early 1990s (Nyamu-Musembi 2007: 1457), only to see it later revived. In addition, the very notion that all land rights could be recorded and monitored, as the United Nations Sustainable Development Goals' tenure security indicator (1.4.2) presupposes,⁶ is untethered to the realities of small farmers' land use, access and exchange

⁵ See Coldham (1979), Fleuret (1988), Haugerud (1983; 1989), Mackenzie (1989), Paterson (1984) and Shipton (2009). See also Hull (2008) on Islamabad and Hetherington (2012) on Paraguay.

⁶ See <<https://unstats.un.org/sdgs/metadata?Text=&Goal=1&Target=1.4>>, accessed 12 February 2024.

practices, for reasons many scholars have illustrated ethnographically.⁷ Shipton (1988: 123), for example, describes types of land exchanges that ‘defy recording and classification ... [T]hey are ad hoc, unnamed, individually tailored agreements in which land is only one of many mutually interchangeable goods ... [T]he lines blur between loans, rentals, barter, swaps, and sales.’ Polytemporalities, including variable durations of any of these arrangements, further complicate formal documentation.

The foundational assumptions of land titling nonetheless live on, as in Rwanda, where a recent World Bank study of the first five years of Rwanda’s digital land titling programme claims success but recognizes the erosion of gender equality and a high rate (87 per cent) of unregistered rural land transactions – which many of the study participants attribute to unaffordable fees (Ali *et al.* 2021). Thus the digitization of land titles itself introduces a new temporality, reinscribing linear teleologies of ‘development’ time even as it effaces both pre- and post-titling land parcel histories and engrains or worsens inequalities of gender and wealth. Transnational actors (such as the World Bank, International Monetary Fund, international non-governmental organizations, bilateral development agencies and corporations) that assume that digitizing land titles is a logical next ‘evolutionary’ stage in techno-bureaucratic time now ‘encourag[e] projects to “transfer” paper records into putatively more accessible and accurate electronic forms all around the world’ (Hull 2012: 261; see also Hall 2013: 112–38; Hetherington 2012).

In Kenya – one of a handful of African countries to begin to digitize land records – prominent government officials promote electronic land records as a technology to reduce corruption and fraud, such as double titling a land parcel (GOK 2021).⁸ Fake title deeds and bills of sale figure in popular culture in Kenya and beyond – as in Brazil’s ‘cricket title deeds’ (*grilagem* in Portuguese, derived from *grilo* or cricket). The latter are fraudulent titles ‘aged’ in a box with crickets who nibble at and defecate on the paper, making it look tawny, old and authentic.⁹ In Kenya, fraudulent land transactions have been the focus of civil society initiatives and official investigations (GOK 2004; Manji 2020; McAuslan 2013). Whether or not new land registry technologies can help to discipline irregular practices and fairly address complex family land histories and rights, clearing the registry of fraudulent titles, is a political as well as a financial and techno-managerial challenge, and new forms of corruption (e.g. ‘fake’ land valuers) have emerged in the processing of electronic land transactions.

To prepare Kenya’s land registry for digitization in the 2020s requires a deluge of updates and corrections, partly because for decades many landowners have not bothered to pick up their title deeds from land registries or surveyors’ offices, sometimes because they lack safe storage sites, or because updating a title deed, or retrieving it from a land registry office, can entangle a person in lengthy bureaucratic processes and formal and informal fees. For these and other reasons, Coldham (1979) observed decades ago, Kenya’s land registry became out of date almost the moment it

⁷ See the references in footnote 5, and Lavigne-Delville’s (2020) tracking of twenty-five years of tenure reform in Benin. See Doss and Meinzen-Dick (2020) on the challenges of defining empirical measures of women’s tenure security.

⁸ Kenya’s digital land registry – the National Land Information Management System (NLIMS) – is dubbed *Ardhi Sasa* (Land Now) in Swahili.

⁹ Marc Edelman, personal communication, 26 October 2020; Edelman (2013: 493, note 18). Our thanks to Jesse Ribot, who first mentioned ‘cricket title deeds’ to Haugerud in 2020.

was created – an outcome reiterated quite recently in Rwanda (Ali *et al.* 2021). Today, new Kenyan requirements to process electronically all non-monetary title transfers, as well as sales and land tax payments (even where old records have not yet been digitized), can improve transaction efficiency and tax collection while also increasing the legal and technical expertise (and perhaps time and money) required to formalize exchanges, subdivisions and inheritance. Unravelling complex land parcel histories and current implications of individual land commitments and rights – where one or more parties to a transaction insist on this – would create exceptional demands on judicial resources and potentially long delays in issuing new electronic title deeds for purchases, sales and subdivision.

In short, Kenya faces digitization challenges similar to those Rodima-Taylor (2021: 149) articulates for Ghana: ‘If broader legitimacy and legibility of land rights are lacking in the real world, can digitalization make a difference, or engender a false promise that further masks exclusion and inequality on the ground?’ Such are the newest implications of techno-bureaucratic time for families like Wanja’s and many others whose land parcel histories and complicated on-the-ground property rights could be effaced by either new records or slow digital bureaucracy’s assumed temporal trajectory.

However fictitious a land registry may be, and however unstable the micro-dynamics of land relations, if we zoom out or scale up from the family homestead or village, small-scale tensions and conflicts can appear to be more or less ‘contained’ through the operations of state institutions such as courts and land control boards (Boone 2014). State containment of local tensions associated with uncertain property relations, however, can be strained by demographic pressure in high-potential agrarian areas, intensified land market competition, scarce off-farm employment opportunities, youth disaffection, and mobility propelled by conflict or by post-conflict resettlement programmes (*ibid.*).

Embu County approximately fits scenario 3 in Boone’s typology, where ‘land-related conflicts are expressed mostly as intensely intergenerational and gendered struggles ... [rather than] indigène-stranger conflict, chieftaincy-centered conflict, or conflict around how state power is used to distribute land among local smallholders’ (2013: 197). In such African locales, land competition, as Boone (*ibid.*: 195) puts it, ‘is likely to play out within families and lineages, and subordinate members will tend to be the main land-rights losers ... Land-related conflict is most likely to take the form of “domestic conflict” and appear non-political.’ In accordance with that wider pattern, while some smallholder family and lineage land disputes in Embu County become formal court cases, many, as Peters (2002: 157) observed in her Malawi study, take forms that ‘rang[e] from quiet mutterings, stifled anger, overt quarrels, repeated fights and witchcraft accusations’, as was the case in Wanja’s extended family and others in Mount Kenya’s south-eastern foothills.

Significance, setting, approach

Agrarian land tenure reforms, like those underway in Kenya since the 1950s, remain profoundly important to much of the world’s population – more than 40 per cent of which is rural (World Bank 2022). Kenya – the first African country to experiment with state-mandated formal registration and private titling – has a much larger share

of its rural land (between one-quarter and one-third) under state-backed titles than most other African countries (Wily 2012: 2). Nearly three-quarters of Kenya's population is classified as rural, and agriculture constitutes two-thirds of export earnings and one-third of GDP (FAO 2020). Urban and rural categories in Kenya and elsewhere in the so-called global South, however, are notably blurred, and that translocality has significant implications for land politics (Borras 2016: 9; see also Opalo 2021). Kenya's urban elites often have country homes they visit at the weekend or for holidays, 'over a third of all Kenyan households divide their members between rural and urban homes', and urban-rural return migration is rising (Moore 2018: 1511). Kenya has one of the continent's highest economic growth rates, substantial wealth inequality, and a scarcity of formal sector jobs – fuel for popular political discontent (African Development Bank 2020; Kanyinga 2009; Opalo 2021; World Bank 2022). Rural land is widely desired for a mix of sentimental, spiritual, speculative, insurance, political and production aims – some of which contribute to intense market competition and rising prices. As Berry (2017: 109) observes more generally, '[w]hether as a site for a small farm, a gated villa, or an asset to hold for the future, land [has] figured centrally in the economic strategies of rich and poor alike' in Africa.

Our research participants live mostly in the largely rural Embu County, and some have migrated to Nairobi. Many are multilingual in Kiambu, Swahili and English. Unlike Kenya's western highlands, land in what is now Embu County was not alienated to European settlers during the colonial era. Embu County – which extends across an altitude gradient with advantageous micro-environmental variation – is full of lush fields of tea, coffee, sweet potatoes, beans, maize and potatoes, interspersed with bananas and trees bearing mangoes, papayas, oranges, avocados and macadamia nuts. Most farms in the coffee zone heartland are about two to seven acres (GOK 2016: 5). Demographic pressure has increased substantially in recent decades (intensifying struggles over farm subdivision and inheritance), and the land market has become 'overheated'.¹⁰

Women's titled land ownership in Kenya remains low, with fewer than 10 per cent of women holding titles more than a decade after the 2010 constitution and subsequent land legislation stipulating gender equality and non-discrimination in land law and practices (Oxfam 2018).¹¹ 'Women's land rights,' land policy expert Ibrahim Mwathane (2020) observes, 'have been embedded in our laws, but not fully embraced by communities.' Legal reforms such as the 2012 Law of Succession Act, which gives sons and daughters (married or unmarried) equal inheritance rights, are enforced unevenly, according to Human Rights Watch researchers Nnoko-Mewanu and Abdi (2020).

Gender is one of several possible axes of exclusion that is accentuated through the narrowing of registrable land interests that accompanies titling – hence 'formalization weakens women's claims to family property' (Nyamu-Musembi 2008: 32). Social differences that can increase insecurity of land rights (i.e. 'weake[n] capacity to mobilize social support for one's claim to property'), as Nyamu-Musembi (*ibid.*: 33)

¹⁰ See data and sources cited later in this article.

¹¹ On women's land rights in Kenya, see Gaafar (2014), Human Rights Watch (2020), Kabira (2019), Nyamu-Musembi (2008), Musangi (2017), and publications by the Kenya Federation of Women Lawyers (FIDA) and Kenya Land Alliance.

writes, include differences 'between people born into a family [or patrilineage] versus those who have married in; or between women at different stages of life; or between those with children and those without; those with a regular source of income and those without'. Furthermore, women's bargaining leverage with respect to land rights is likely to decrease as land becomes scarcer.

In Mount Kenya's foothills, where inheritance has long favoured male patrilineal descendants, men in the patriline have the power to grant land use rights to in-marrying women (wives and widows), or to divorced sisters who return to their natal patrilineage. Children of the latter belong to their father's lineage, unless that paternity is not publicly recognized because their biological father's (or step-father's) and mother's relationship was not formalized through bridewealth payments negotiated between the two families in the presence of elders.¹² In Embu County, children from a non-formalized union usually take as their surname their maternal grandfather's name (or recently, though less frequently, their mother's maiden name), are considered to be members of their mother's natal patrilineage, and therefore are eligible to inherit land bequeathed to her through her natal patrilineage; this is more common for sons than for daughters of an unmarried woman, and sometimes subject to contestation by male patrikin. Thus, the children Muthoni bore during her marriage continued to live with her former husband after the divorce and were considered members of his patrilineage, while her post-divorce children (including Wanja during childhood) resided with her on part of her late father's land and were recognized by her agnate Nyaga as members of her natal patrilineage. If a daughter of Muthoni were to marry, she would join her new husband's lineage.

While women in Kenya can own land, their access to farmland often still depends on the goodwill or solicitude of male kin, as is the case in much of Africa (Englert and Daley 2008). Women often lack the financial resources to rely on the formal judicial system, or the legal knowledge and social connections that might enable them to pursue possibilities for redress. Much is decided by relative bargaining power within descent groups or women's fallback positions in the context of historically changing political and economic conditions.

Paternal secrecy about farmland succession plans is not unusual in central Kenya, and waiting years for formal subdivision, inheritance and a title deed is not always fraught with worry or uncertainty. A trusted patriarch, for example, may allay the fears of potential heirs by allowing them to plant trees (a marker of permanency in land claims) or build their own houses and plant permanent crops such as coffee or tea on portions of a farm he assures them they will inherit. Such steps, however, do not preclude later contestation by kin with competing interests. As Doss and Meinzen-Dick (2020: 4) put it more generally, 'The robustness of rights relates to the extent to which they are enforceable when under threat, and the accessibility of forums to protect these rights.' For many women, and for the poor, such protections are thin.

Personal land stories of central Kenyan farm families reveal not only tensions and insecurity but also enduring expressions of social solidarity, solicitude, hope and forethought. Both sets of micro-social tendencies crucially shape land relations over time in ways that receive less scholarly attention today than related larger-scale

¹² Cf. Reece (2019) on Tswana processes of recognizing conjugal relationships as kin relationships.

dynamics of land conflict, foreign direct investment in agricultural land and public land grabs.¹³ Our multitemporal ethnographic research – repeated visits to the same research site across decades – yields snapshots of these micro-social processes and captures the immediacy of our interlocutors' experiences across time.

Such long-term, episodic engagement across the lifecycles of both researchers and research participants as they co-produce knowledge often deepens the anthropologist's relationships with research interlocutors,¹⁴ as it has for us, and we are grateful for the participants' generous engagement with our study. Repeated visits also tend to accompany shifts in methods and analytical questions that in turn are shaped by changes in the research setting, academic disciplines, and the wider worlds that envelop these (processes we lack space to address here). When Mwangi, who was born and raised in Embu County, joined this study as a student collaborator in 1994, Haugerud's research was expanding from its initial rural focus (1979–81) to include Nairobi migrants from the eighty-two farm families she originally studied and whom she has revisited many times since then. Her research participants over time have ranged from individuals who came of age under British colonial rule to their offspring and eventually their grandchildren as they moved through adulthood – each generation facing very different structures of economic opportunity. Since the early 1980s, rural Embu has seen increases in local literacy and education levels (GOK 2019; 1979; 1969), improved road networks, wider access to electricity and piped water, more permanent houses (wood or cement rather than earthen walls), and more frequent residence and travel abroad (for study, business, medical care, professional purposes or visits to kin). Throughout the decades of our visits, land – how to acquire or keep it, cultivate it, profit from it, share it, build dwellings or livestock enclosures on it, or divide it among heirs – has been a focal point of everyday life and conversation in Mount Kenya's foothills.

Waiting and precarity

A multi-year wait to formalize an informal understanding about land between kin, or for a patriarch to decide about farmland subdivision and succession, can feel perilous. The act of waiting itself – extended in Muthoni's case for more than two decades – can reinforce dependence on, or social subordination by, powerful male kin in a politics of waiting, in which effects of gendered power relations wax and wane with wider structural changes in the economy (cf. Auyero 2012: 2). Muthoni at first waited with confidence and optimism for her agnatic kinsman Nyaga to convey to her a title deed she said her deceased father had promised her – for the farm Muthoni's daughter termed a 'riddle with no answer'. As many years passed, Muthoni grew frustrated and eventually alarmed, and family relations deteriorated. In late 2023, Wanja lamented that fraying. 'It's sooo bad when a family tears [itself] apart just because of inheritance,' she said, adding, 'unfortunately the less privileged always suffer the most.'

Muthoni always greeted us warmly and invited us to sit on a bench or wooden chairs, after we had parked a Suzuki jeep and walked on footpaths through farm fields

¹³ Exceptions include Edelman *et al.* (2015) and Scoones *et al.* (2013).

¹⁴ On long-term field research in cultural anthropology, see Kemper and Royce (2002), Howell and Talle (2012) and Dalsgaard and Nielsen (2015), among others.

or grassland to her compound. Near her mud-walled house with a corrugated iron roof were banana trees; fields of maize, sweet potatoes and beans; an occasional mango or macadamia nut tree; and a cow or goats. Muthoni chatted with us about how her children were doing in school, her farm work, her church, what she had been doing that day, the birth of a calf or goat, a recent harvest of beans or maize, and much more during visits spread across decades. She told us that her own mother and grandmother had shared family stories, including narratives centred on land, and she wanted them to be known.

We also talked with her extended family members – women and men of varying ages and economic status – noting where perspectives and memories varied, and which voices carried more weight than others in family discussions. Our interlocutors took particular care to provide information they realized they had omitted previously or to clarify something they thought we might have misunderstood. Some suggested that their descendants would learn from the resulting publications. The multivocal narrative we construct here, based on multiple cross-checks, is open-ended and includes a few deliberate gaps to protect confidentiality about sensitive matters that we address more generally instead.

How did Muthoni's title deed wait originate? After she left her husband's farm and divorced in the 1980s, her father (an influential clan elder during the late-colonial land demarcation) promised her a title deed, she said, for a portion (more than ten acres) of one of his several land parcels. A large piece of lineage land where he himself did not live, it was in an area then termed *Weru* because several decades ago it was lightly settled and used primarily for grazing or itinerant cultivation (especially by residents of the adjacent uplands). On that land, Muthoni's father helped her start a new farm – assistance he may have offered partly because at the time it was rare for a divorced woman with children to marry again, and because he himself had ample land.

Muthoni then planted coffee and food crops, built a small mud-walled house and separate kitchen, worked hard, and raised several more children – none of them the progeny of relationships formalized as marriage through negotiation, visitation rituals and bridewealth payments. In the absence of those social processes, their biological fathers are not publicly recognized, and hence Muthoni's several post-divorce sons and daughter are seen as members of her natal patrilineage. That she was allowed to plant a permanent crop (coffee) on that portion of her father's lineage land suggests that her father at least saw her cultivation rights there as secure.

What changed? After Muthoni's father died, before he had formally subdivided his land between his heirs, a court review put Nyaga in charge of subdividing and titling the property. According to Muthoni, Nyaga promised her (and possibly the court) that he would follow her deceased father's wishes by allotting her a state-backed title deed to part of the large land parcel. Since it was not unusual for subdivision and titling to take years, or for title transfers to be deferred due to administrative costs, and since Muthoni was on good terms with Nyaga, she initially felt that her cultivation, grazing, building and residence rights there seemed firm enough. It is likely that these were safer assumptions in the 1990s than they would be today, given intensified competition for land and higher prices now.

An optimistic Muthoni in mid-1997 said she had never tried to force Nyaga to transfer a title deed to her, believing that he would do so according to moral

obligations of kinship, with a 'good heart', rather than from any sense of coercion. Nyaga himself, in conversations with the authors, spoke with sympathy and goodwill about Muthoni.

As a decade and then another passed without a title deed, Muthoni grew uneasy and then distressed at her apparent exclusion from crucial family land allotment decisions as the projected size of each portion designated for Muthoni and her sons – in the narratives of Nyaga's immediate family – seemed to shrink over time or to be under active reconsideration. In the mid-2010s, she sought (with inconclusive results) the intervention of a well-employed kinsman to help formalize the land arrangements. Such alliances were important since she and her post-divorce children were economically precarious and sometimes felt socially marginalized in Muthoni's natal patriline (perhaps partly reflecting occasional counter-interpretations of lineal principles noted above). In addition, the growing community influence of junior male kin in her extended family who were pressing for larger inheritances perhaps inhibited Muthoni's potential allies. Since she had only casual farm labour for others as a fallback (and such work became increasingly difficult as she aged), Muthoni had little leverage or bargaining power – apart from invoking her deceased father's wishes, along with cultural norms about ancestral clan land being shared 'with a good heart'. Muthoni's post-divorce sons felt that some men in Nyaga's wealthier family had little empathy for their economic difficulties, and Muthoni was troubled when men in Nyaga's family joked that her unmarried status might be a greedy tactic to acquire land.

As Nyaga, the extended family patriarch, pondered subdivision and succession, how would he weigh competing interests, conflicting principles of duty to his sons versus norms of wider moral commitment to those now in his patrilineage (whether sisters, daughters, aunts, cousins or famine migrants) – norms likely thrown into flux by increasing land scarcity and market competition? How could he diminish the possibility that any of Muthoni's children (or Nyaga's, for that matter) might sell inherited land to someone outside the lineage – an outcome that not only would displease Nyaga, but might also provoke wider recriminations in the family and be seen to invite misfortune (cf. Elliott 2022 on northern Kenya)? Countering his deceased clan member's wishes (by decreasing or even erasing Muthoni's inheritance from her father) also carried reputational risk, and might invite moral scrutiny or misfortune (cf. *ibid.* on northern Kenya).

Might Nyaga's years of delay in conferring title deeds – intentionally or not – have been a period of quasi-security that helped for a time to stave off market temptations (on the part of Muthoni's or Nyaga's adult sons) to sell the land? A time to stabilize interpersonal relations and livelihoods and to contain a potentially volatile situation? If so, that putative benefit and Muthoni's own earlier sense of security wore off as she and Nyaga aged and as the stakes grew for their adult children and their own families. Worry about getting the long-promised title deed, Wanja told us in 2022, risked robbing her mother of the peace of mind her daughter wished for Muthoni as she aged. Such uncertain waiting – across many years – evinces tenure security as a contingent process rather than as an event.

Waiting, however, is not passivity. Wanja worked long hours towards better futures for herself and for her mother, and she continued to save money from her salary to purchase land for herself or her mother or both. Through her job, which she

enjoyed, she was developing networks and expertise that might allow her eventually to establish her own business.

Wanja told us in 2020 that she believed the farm where her mother lived belonged to the deceased senior men of Muthoni's and Nyaga's lineage. Therefore, she said, Nyaga should provide her mother and brothers with the quantity of land they needed – sentiments that reflect longstanding (albeit contested) cultural beliefs that an individual can be only a guardian – not an owner – of ancestral land, which belongs to past, present and future generations. Market logics and opportunities – which can enable dispossession – unsettle (but do not necessarily displace) such longstanding notions of obligations to kin.

A land market heats up, dispossession looms

Today *bodaboda* (motorbike taxis) blaring the latest pop or gospel music zip along newly paved roads between Embu County uplands and lowlands. Much has changed since Muthoni's divorce led her to settle in the sparsely populated lowlands locals called *Weru*, temporally construed then as yet-to-be-developed 'bush'.

With crowding in the adjacent uplands, the former *Weru* now attracts more and more people (heirs of uplands residents or land purchasers from within the county and beyond) who plant new trees and crops and build houses, livestock sheds and shops. Population densities there have risen from about 100 people per square kilometre during the late 1970s to 200–400 by 2019 (GOK 1979; 2019). Brokers connect land buyers and sellers, and farms and commercial plots are nationally advertised through property agencies and newspaper advertisements in publications such as *The Star* (Nairobi). Land prices in late 2023 were about 2.4 million–3 million Kenyan shillings per acre (approximately US\$162,000–195,000 in late 2023) in the tea zone nearest Mount Kenya, dropping gradually to about half that as fertile and intensively cultivated ridges, hills and valleys give way to flatter landscapes with less rain, fewer trees and more fallow or pasture land.¹⁵

Among families long-settled in the *Weru*-adjacent uplands, heightened competition for rural land within expanding multigenerational families who are crowded onto small farms is partly a consequence of the shortage of non-agrarian economic opportunities, even for educated children (cf. Moore 2018: 1509). Furthermore, the 2019 Embu uplands coffee zone population density of over 700 people per square kilometre (GOK 2019) surpasses economically beneficial densities for crop production (Moore 2018: 1509). Such trends contribute to dispossession.

Distress sales of land in Embu have accompanied growing inequality in recent decades. Some who struggled to make ends meet by renting land to cultivate were gradually priced out of increasingly competitive rents (often with advance payments for multiple seasons) and turned to informal day labour. When financially stressed farmers in Embu County sell their land to wealthier individuals, the buyers sometimes hire the dispossessed to work on the farm – a familiar historical pattern globally. Some new owners foster relations of goodwill and interdependence with those displaced and with their new neighbours, partly because all depend on one another

¹⁵ We thank land administration professional Ibrahim Mwathane for providing 2023 updates on local land prices.

for security (e.g. to reduce crop or livestock theft). In addition, even when sellers are not in financial distress, they at times continue to cultivate their former land informally through arrangements of seasonal borrowing at no monetary cost (usually with an informal agreement that the buyer will provide the seller with one or more season's advance notice if the new owner wishes to cultivate it).

In short, purchases and sales often emerge from or generate social relationships that bear little resemblance to the impersonal market transactions of economic models (as Sara Berry, among others, has demonstrated in other parts of Africa). 'Property in land,' Sally Falk Moore (2016: 301) wrote, 'is surely one of the most socially embedded of the elements of a legal order.' Contrary to conventional assumptions of unilinear change, markets and demographics can shift the terms of that enduring social embeddedness without eclipsing it.

While neoliberal policymakers often consider market liquidity of farmland to be advantageous, it is difficult to envision how Muthoni's family members might secure their futures by selling all or part of any land they might inherit. The rosier scenario might be to sell an acre and use the proceeds to purchase a larger piece of land in a lower-altitude area where prices are lower – although cultivation there is riskier and requires significant purchases of inputs such as fertilizers and seed, which could be hard to sustain in the absence of reliable off-farm income. More likely perhaps is dispossession or continued poverty – downward economic mobility in the form of differentiation that is secular or long-term (rather than Chayanovian or rooted in recurrent family lifecycle stages).¹⁶ That is a particular risk for women-headed households, as many studies have shown (e.g. Muyanga *et al.* 2013, cited in Moore 2018), and in Embu dispossession is a wider risk as well.

Although land relations can be fraught, they are about much more than competition and conflict. They are embedded as well in enduring forms of care: a daughter's love for her mother, a man's kindness to his sister or cousin, a woman's friendship with her less well-off sister-in-law. Although Muthoni's relationship with her lineage-mate Nyaga was sometimes conflictual, he also expressed sympathy and respect for her resourcefulness and that of her daughter as they worked hard and confronted economic challenges much greater than his own. As Wanja grew to adulthood, she realized how much her divorced mother had struggled to support herself and her children, and Wanja cared deeply about helping to arrange for her mother a safe and secure life in old age.

Why such life-stage transitions worked out more smoothly in some families is the focus of our next case study, which illustrates how secular (rather than cyclical) changes enabled some to prepare decades in advance for subdivision, formal inheritance and livelihood security for sons and daughters, as well as grandparents. Here too, however, divorced daughters waited decades for male kin to formally subdivide their father's land and distribute new titles.

A patriarch buys land to protect lineage land

More than an economic resource, land and associated spiritual beliefs about lineage ancestors anchor social and personal identity. For many, the loss of family land both

¹⁶ On Chayanovian (Chayanov 1966) versus secular differentiation in Embu up to the early 1990s, see Haugerud (1995: 141–82).

symbolically and materially wounds a lineage. The wish to avoid such loss was evident among Muthoni's kin, and it was a dominant concern for Njeru, our next focus, in a brief land chronicle from a family whose land strategies and opportunities differed in significant ways from those of Muthoni and Nyaga.

Njeru's father, Njoka, was a successful small-scale coffee farmer whose hard work and coffee crop quality had been praised by others in his village for decades. He had been a colonial-era migrant worker for European families in Nairobi and a salaried farm worker for a man from a nearby district who became a generous patron during the 1960s. That employer's kindness, Njoka told Haugerud four decades ago, contributed much to his subsequent economic well-being, since he and his young family had struggled financially in his early adult years. Like many in Embu, Njoka saw education as an excellent investment, and he managed to pay school fees for his children and some of his grandchildren – partly through loans (which he repaid) and through assistance from a better-off relative. Njoka said in 1994 that he had planned years in advance for his children's future by purchasing several land parcels (each under ten acres, for about 6,000 Kenyan shillings or US\$330 per acre at the time) while they were growing up during the 1960s and 1970s. By the late 1970s, two of his sons had settled on land he had purchased in a nearby, less densely populated neighbourhood that attracted many post-independence land purchasers and settlers.

Before he died, Njoka informally allotted some land in his homestead to daughters who had divorced or separated from their husbands after bearing children and who eventually returned to their natal home (where they cooked in separate kitchens). By the 2010s, a few years after Njoka's death, his widow and an unmarried daughter who had adult children lived in part of a large and comfortable stone house that Njoka's prosperous son Njeru built on his father's land (replacing the previous mud-walled structures and corrugated iron roofs). Njeru worked in Nairobi, and he and his wife and children spent some weekends and holidays at his natal home.

Njue – the son of one of Njoka's daughters who had never formally married Njue's biological father and who separated from him when Njue was a child – noted that his mother's economic journey had been difficult. Njue was grateful that his maternal grandfather (whose name became his surname) had supported his education and he eventually became a highly successful businessman who keenly valued schooling for his own children. He purchased for his mother a small portion of a former neighbour's farm, which a bank auctioned after the owner defaulted. After the seller's family head died, his family members dispersed to lower-altitude parts of Embu County, because most of their farm had been sold off over the years in fragments – one type of dispossession. As of late 2023, Njue retains the title and said he plans to transfer it to his mother.

More than a decade after Njoka (Njeru's father and Njue's grandfather) died, formal subdivision, succession and allocation of new titles to the farm where Njoka had lived had not occurred, while two daughters retained informal cultivation rights to portions their father had allotted to them. Njoka told Haugerud in 1994 that parents were obliged to support divorced daughters if they needed assistance and he said then that although his precise plans were secret, he expected to allot perhaps an acre of the farm where he lived to each of his dependent divorced or separated daughters, and give other sections to one or more male heirs. Such a plan for his daughters might be less likely to succeed had he not been able to purchase land elsewhere for some of his sons years earlier.

When Njoka's son Njeru, a gifted student, became an adult, he often said he hoped his father would allocate land to his sisters because they were not formally married, had children, and were part of his lineage, while he and his brothers did not need that land. Njeru remarked to Haugerud in 1994 that, in order to reduce later financial demands from unmarried sisters and their children, it would be best to give them land of their own. In 2002, he commented that if he did not have economic options other than land and if he were not financially secure, he might argue that his sisters should not take land he could inherit from his father. He added that, instead, 'I ... have never thought about my father's land because I don't think I'll need it. I can get alternative ways of going about my life.' That was easier in Njeru's generation, which came of age during the economically buoyant first twenty or so years of the postcolonial era – a time when civil service jobs and other formal employment were more available than they are today (see Branch 2011).

In contrast to Muthoni's more difficult circumstances vis-à-vis Nyaga's family, in 2020 Njeru told Haugerud that he was pleased that his divorced sisters who had resettled in his deceased father's compound and adjacent to it seemed 'very stable' and contented. He emphasized again that because his sisters had separated from the fathers of their children, they too were part of his patrilineage, and it was good for them to join large family gatherings and become acquainted with their cousins and aunts and uncles: 'The family has been extremely welcoming ... for people who want to be part of it.' Njeru sees the large house he built on his deceased father's land as a home any relative can visit and a 'legacy we maintain for the entire family'. While those sentiments of course could not guarantee that children of an economically precarious sister, for example, would feel comfortable mingling with their better-off kin, Njeru was better positioned financially than Nyaga was to house and incorporate unmarried or divorced female kin into the family and to house them comfortably. Doing so, motivated by care, also had public reputational benefits for the lineage.

For Njeru's sisters, access to shelter and land to cultivate depends not only on the goodwill of their late father but also on living patrilineal kin, from whom they (like Muthoni) hope eventually to acquire title deeds. Here, too, the wait for titles stretches across years. As a new generation comes of age, it is too soon to know if prior cross-generational land commitments to daughters will be eclipsed, how Njoka's adult grandchildren might interpret their ageing paternal aunts' circumstances, or how much influence particular family members may have on eventual subdivision and inheritance decisions.

In this family, as in Muthoni's and many others, senior males had incentives to defer formal subdivision and title transfer. Njeru was concerned that subdividing his deceased father's farmland and distributing titles to heirs could lead to sales that would, in his words, 'extinguish the lineage'. High local land prices, he said, might increase the temptation for heirs to sell their land – a salient concern among many of our research interlocutors. Indeed, much of Africa, Wily (2012: 10) remarks, has seen 'declining sanction against the sale of family lands'. Symbolic and material attachment to lineage land, however, retains force in an ever changing play of power and material interest.

In other Embu families as well, title deeds are in limbo and married sons gently press ageing fathers to proceed with formal subdivision and succession, while divorced or separated daughters with children try to leverage lineage rights and

titles. In one family, a married son softly cautioned his father that he and his wife and children, who had built a house in a corner of the paternal land and had lived there for years, would move elsewhere if his father did not proceed soon with subdivision and title allocation to heirs.

A focus on what is at stake during prolonged family land titling uncertainty allows us to capture important dimensions of what Lund (2008: 11), in a wider African context, terms the 'precariousness and multistranded nature' of these historical property rights processes. Neither endlessly negotiable nor structurally predetermined by economistic logics, land rights are a portal into how societal justice is anchored in discrepant temporalities – biographic, bureaucratic and structural – alongside complex land parcel histories that some wish to forget and others struggle to surface before a new wave of state land registry practices such as digitization effaces multiple pasts and resets the present. In short, the durability of property claims and rights is a live issue, no matter the age of a title.

Conclusions

If Muthoni – contrary to conventional familial conflict resolution patterns in Embu – had pursued formal legal action so that land registry records for the parcel she occupied accurately reflected her paternal inheritance claim, and if a court ruled that Nyaga and his sons could not exclude her from formal subdivision and succession, she would have defied the odds facing women in such disputes. Legal action, whether successful for Muthoni or not, likely would harm her relationships with Nyaga and others in her extended family. That the title deed to land to which Muthoni claimed a heritable interest was still held by Nyaga as of early 2024, and that the title did not accurately reflect all relevant material facts of the land parcel's history, is just one example of a wider pattern of vulnerable rights – chancy durability – which the transition to electronic documents in Kenya and beyond could reproduce or magnify.

Such divergences are a reminder that the formalization of property relations, as Michael Dwyer writes, is not 'merely putting an official stamp on rights which already unambiguously exist' (2015: 906) and it is not a socially or politically neutral process (Shipton and Rodima-Taylor 2015: 234). Land stories like those explored here invite a view of title deeds as provisional truths rather than legal certainties, and tenure security as an uncertain and reversible process rather than simply a present or absent condition.

A look at title deed temporalities reveals documents that bear names not only of the deceased or of quasi-legal purchasers, but of proxy owners who were to have transferred titles to others according to unwritten agreements, as well as people who never pick up their title deeds until they are ready to sell or formally subdivide their land for heirs (with the risk that documents disappear in the interim). Sales often proceed through months of negotiation and courtship-like social visits between buyers and sellers before being formalized through a land registry, and sometimes that final step does not occur before the death of a seller who had shared the transaction information with no one. Determining the legal owner then becomes a judicial conundrum (Mwihuri 2021). Complex, socially embedded temporal trajectories belie the ostensible certitude of land registries in ways that privilege the powerful.

Title deeds, as documents essential to the constitution of property, embody norms, discursive logics and classification schemes, as well as social relationships. Yet people, as Hull (2012: 259) writes, 'are more than the instrumental objects of bureaucratic processes'. Individuals (albeit to varied degrees) can expose discrepant temporalities and uncertain legalities in actions enabled by title deeds, which in turn can become 'vehicles of imagination'¹⁷ of alternative state practices, inspired by ethical judgements about micro-events as well as larger-scale processes of land accumulation or dispossession. Formal and informal are intertwined in historically contingent ways. While title deeds and other types of formality in economic affairs have 'real effects on economic lives', as Bolt (2021: 990) writes in his study of urban black South African inheritance processes, '[formality] is less categorical, less certain, and less able to create subjectivities and rationalities than it appears'.

The implications of that shapeshifting uncertainty loom large not only within families but also in ambitious new land registry digitization programmes launched recently in Kenya and elsewhere. These technocratic initiatives – wrapped in teleologies of progress and 'development' – risk creating new temporal erasures that augment economic precarity as the bureaucratic time of land registries effaces biographic time, moral economies and land histories of the vulnerable and marginalized.

As demographic and market pressures on lineage land intensify, social reproduction becomes more precarious and dispossession more likely. Patriarchs struggle to devise family inheritance and succession plans that will 'carry everyone along', as Njeru put it in late 2023, and not risk 'minimizing the legacy' by losing 'a common ancestral address' through lineage land sales.

As lineage elders strive to balance competing principles of protecting land for direct male lineal descendants and eligible women, as well as sustaining moral commitments to wider networks of kin, cross-generational fading of historical memories that sustain longstanding oral commitments about title deed transfers is especially likely to augment precarity for divorced or single women and their children. Prolonged uncertainty for these women, however, does not mean passivity, and precarity does not mean incapacity to act, to contest, or to shape events through subtle dynamics within social relationships. Though tugged in contrary directions by individual family members, Nyaga continued to listen and evince sympathy towards his age-mate Muthoni and her daughter. Muthoni did not give up but periodically sought Nyaga out for discussion – which sometimes became heated – as he pondered his title allocation decisions.

Among families across the countryside, land conversations buzz with hope, indignation, love, fear, doubt – and, in a corner of Embu County, bafflement about how a beautiful family farm, title deed intact, can become, for so long, an unsolvable riddle. Solvable or not, such puzzles reveal polytemporalities that elude land registries of the present and near future.

Acknowledgements. We are deeply grateful to our Embu County research participants for their warm welcome and their generosity with their time and knowledge. Angelique Haugerud would like to thank the University of Nairobi's Institute for Development Studies for stimulating intellectual engagement, collegiality and expert administrative support during multiple research visits. This article draws on

¹⁷ Hull's (2012: 260) term, in a wider context.

research funded at various times by the Social Science Research Council (with support from the American Council of Learned Societies), Yale University, Rutgers University, Princeton University's Urbanization and Migration Program, and the American Philosophical Society. We appreciate the insightful comments of Marc Edelman and Parker Shipton on an early draft, and the astute comments of this journal's reviewers.

References

- African Development Bank (2020) *Rethinking Land Reform in Africa: new ideas, opportunities and challenges*. Abidjan: African Development Bank Group.
- Ali, D. A., K. Deininger, G. Mahofa and R. Nyakulama (2021) 'Sustaining land registration benefits by addressing the challenges of reversion to informality in Rwanda', *Land Use Policy* 110: 1–12.
- Auyero, J. (2012) *Patients of the State: the politics of waiting in Argentina*. Durham NC and London: Duke University Press.
- Berry, S. (2017) 'Struggles over land and authority in Africa', *African Studies Review* 60 (3): 105–25.
- Bolt, M. (2021) 'Fluctuating formality: home ownership, inheritance, and the official economy in South Africa', *Journal of the Royal Anthropological Institute* (NS) 27: 976–94.
- Boone, C. (2013) 'Land regimes and the structure of politics: patterns of land-related conflict', *Africa* 83 (1): 188–203.
- Boone, C. (2014) *Property and Political Order in Africa: land rights and the structure of politics*. New York NY: Cambridge University Press.
- Borras, S. (2016) 'Land politics, agrarian movements, and scholar-activism'. Inaugural lecture, International Institute of Social Studies, 14 April.
- Branch, D. (2011) *Kenya: between hope and despair, 1963–2011*. New Haven CT and London: Yale University Press.
- Brokensha, D. and J. Glazier (1973) 'Land reform among the Mbere of central Kenya', *Africa* 43 (3): 182–206.
- Bryant, R. and D. M. Knight (2019) *The Anthropology of the Future*. Cambridge: Cambridge University Press.
- Chayanov, A. V. (1966) *The Theory of Peasant Economy*, edited by D. Thorner, B. Kerblay and B. Smith. Homewood IL: Irwin.
- Coldham, S. (1979) 'Land tenure reform in Kenya: the limits of the law', *Journal of Modern African Studies* 17 (4): 615–27.
- Dalsgaard, S. and M. Nielsen (eds) (2015) *Time and the Field*. New York NY: Berghahn Books.
- Doss, C. and R. Meinzen-Dick (2020) 'Land tenure security for women: a conceptual framework', *Land Use Policy* 99: 1–12.
- Dwyer, M. B. (2015) 'The formalization fix? Land titling, land concessions and the politics of spatial transparency in Cambodia', *Journal of Peasant Studies* 42 (5): 903–28.
- Edelman, M. (2013) 'Messy hectares: questions about the epistemology of land grabbing data', *Journal of Peasant Studies* 40 (3): 485–501.
- Edelman, M., R. Hall, S. M. Borras Jr, I. Scoones, B. White and W. Wolford (eds) (2015) 'Resistance, acquiescence or incorporation? An introduction to land grabbing and political reactions "from below"', *Journal of Peasant Studies* 42 (3–4): 467–88.
- Elliott, H. (2022) 'Durable conversions: property, aspiration, and inequality in urban northern Kenya', *Economic Anthropology* 9: 112–24.
- Englert, B. and E. Daley (2008) 'Introduction: women's land rights and privatization in Eastern Africa' in B. Englert and E. Daley (eds), *Women's Land Rights and Privatization in Eastern Africa*. Suffolk, Rochester NY, Kampala, Nairobi and Dar es Salaam: James Currey, Fountain Publishers, EAEP and E&D Vision Publishing.
- FAO (2020) 'FAO in Kenya: Kenya at a glance'. Food and Agriculture Organization of the United Nations (FAO) <<http://www.fao.org/kenya/fao-in-kenya/kenya-at-a-glance/en/>>, accessed 12 January 2024.
- Feder, G. and R. Noronha (1987) 'Land rights systems and agricultural development in sub-Saharan Africa', *World Bank Research Observer* 2: 143–69.
- Fleuret, A. (1988) 'Some consequences of tenure and agrarian reform in Taita Taveta, Kenya' in R. Downs and S. P. Reyna (eds), *Land and Society in Contemporary Africa*. Hanover NH and London: University Press of New England.

- Gaafar, R. (2014) 'Women's land and property rights in Kenya'. Landesa Center for Women's Land Rights <<https://openknowledge.worldbank.org/handle/10986/2376>>, accessed 12 January 2024.
- Ghertner, A. D. and R. W. Lake (eds) (2021) *Land Fictions: the commodification of land in city and country*. Ithaca NY and London: Cornell University Press.
- Glazier, J. (1985) *Land and the Uses of Tradition among the Mbeere of Kenya*. Lanham MD, New York NY and London: University Press of America.
- Gluckman, M. (1965) *The Ideas in Barotse Jurisprudence*. New Haven CT: Yale University Press.
- GOK (1969) *Population Census*. Nairobi: Government of Kenya (GOK).
- GOK (1979) *Population Census*. Nairobi: Government of Kenya (GOK).
- GOK (2004) 'Report of the Commission of Inquiry into the Illegal/Irregular Allocation of Public Land', chaired by Paul Ndungu. Nairobi: Government of Kenya (GOK).
- GOK (2016) 'Climate risk profile for Embu, Kenya: county climate risk profile series'. Nairobi: Kenya Ministry of Agriculture, Livestock, and Fisheries, Government of Kenya (GOK).
- GOK (2019) *Population Census*. Nairobi: Government of Kenya (GOK).
- GOK (2021) 'Digital land platform to curb fraud, says President Kenyatta'. Government of Kenya (GOK), 27 April <<https://lands.go.ke/digital-land-transaction-platform-to-curb-fraud-says-president-kenyatta/>>, accessed 12 January 2024.
- Grabham, E. and S. M. Beynon-Jones (2019) 'Introduction' in E. Grabham and S. M. Beynon-Jones (eds), *Law and Time*. New York NY: Routledge.
- Hall, D. (2013) *Land*. Oxford: Polity.
- Haugerud, A. (1983) 'The consequences of land tenure reform among smallholders in the Kenya highlands', *Rural Africana* 15–16: 65–89.
- Haugerud, A. (1989) 'Land tenure and agrarian change in Kenya', *Africa* 59 (1): 61–90.
- Haugerud, A. (1995) *The Culture of Politics in Modern Kenya*. Cambridge and New York NY: Cambridge University Press.
- Hetherington, K. (2012) 'Promising information: democracy, development, and the remapping of Latin America', *Economy and Society* 41 (2): 127–50.
- Howell, S. and A. Talle (eds) (2012) *Returns to the Field: multitemporal research and contemporary anthropology*. Bloomington IN: Indiana University Press.
- Hull, M. (2008) 'Ruled by records: the expropriation of land and the misappropriation of lists in Islamabad', *American Ethnologist* 35 (4): 501–18.
- Hull, M. (2012) 'Documents and bureaucracy', *Annual Review of Anthropology* 41: 251–67.
- Human Rights Watch (2020) "'Once you get out, you lose everything": women and matrimonial property rights in Kenya' <https://www.hrw.org/sites/default/files/media_2020/06/kenya0620_web.pdf>, accessed 12 January 2024.
- Hunt, D. (2005) 'Some outstanding issues in the debate on external promotion of land privatization', *Development Policy Review* 23 (2): 199–231.
- Kabira, N. (2019) 'Constitutionalizing traveling feminisms in Kenya', *Cornell International Law Journal* 52: 137–69.
- Kanyinga, K. (2009) 'The legacy of the White Highlands: land rights, ethnicity and the post-2007 election violence in Kenya', *Journal of Contemporary African Studies* 27 (3): 325–44.
- Keenan, S. (2018) 'Making land liquid: on time and title registration' in S. M. Beynon-Jones and E. Grabham (eds), *Law and Time*. New York NY: Routledge.
- Kemper, R. V. and A. P. Royce (eds) (2002) *Chronicling Cultures: long-term field research in anthropology*. Walnut Creek CA: AltaMira Press.
- Lahiff, E., S. M. Borras and C. Kay (2007) 'Market-led agrarian reform: policies, performance and prospects', *Third World Quarterly* 28 (8): 1417–36.
- Lavigne-Delville, P. (2020) "'Rural land plans" in Benin (1992–2015): the journey of a "pilot" instrument within nonstabilized policies', *Revue Internationale de Politique Comparée* 27 (2–3): 81–94.
- Li, T. M. (2005) 'Beyond "the state" and failed schemes', *American Anthropologist* 107 (3): 383–94.
- Lund, C. (2008) *Local Politics and the Dynamics of Property in Africa*. Cambridge and New York NY: Cambridge University Press.
- Lund, C. and C. Boone (2013) 'Introduction: land politics in Africa – constituting authority over territory, property and persons', *Africa* 83 (1): 1–13.

- Mackenzie, F. (1989) 'Land and territory: the interface between two systems of land tenure in Murang'a District, Kenya', *Africa* 59 (1): 91–109.
- Manji, A. (2020) 'Land rights and the rule of law' in N. Cheeseman, K. Kanyinga and G. Lynch (eds), *Oxford Handbook of Kenyan Politics*. Oxford: Oxford University Press.
- McAuslan, P. (2013) *Land Law Reform in Eastern Africa*. London and New York NY: Routledge.
- Moore, H. L. (2018) 'Prosperity in crisis and the *longue durée* in Africa', *Journal of Peasant Studies* 45 (7): 1501–17.
- Moore, S. F. (2016) *Comparing Impossibilities: selected essays of Sally Falk Moore*. Chicago IL: HAU Books.
- Musangi, P. (2017) 'Women's land and property rights in Kenya'. Paper presented at the 2017 World Bank Conference on Land and Poverty, 20–24 March. Washington DC: World Bank.
- Muyanga, M., T. Jayne and W. Burke (2013) 'Pathways into and out of poverty: a study of rural household wealth dynamics in Kenya', *Journal of Development Studies* 49 (10): 1358–74.
- Mwathane, I. (2020) 'Challenges that stall Kenya's bid for land reforms', *Nairobi Business Daily*, 2 October <<https://www.businessdailyafrica.com/bd/opinion-analysis/columnists/challenges-that-stall-kenya-s-bid-for-land-reforms-2454682>>, accessed 12 January 2024.
- Mwihuri, W. (2021) 'The illusionary right to protection of property under Article 40 of the constitution: an essay on recent jurisprudence regarding indefeasibility of title in Kenya', *Law Society of Kenya Journal* 17: 5–36.
- Njeru, E. H. N. (1978) 'Land adjudication and its implications for the social organization of the Mbere'. Madison WI: University of Wisconsin Land Tenure Center. Available at <<https://minds.wisconsin.edu/handle/1793/56715>>, accessed 2 April 2024.
- Nnoko-Mewanu, J. and N. Abdi (2020) 'Securing women's property rights in Kenya', *Daily Nation*, 7 March.
- Nyamu-Musembi, C. (2007) 'De Soto and land relations in rural Africa: breathing life into dead theories about property rights', *Third World Quarterly* 28 (8): 1457–78.
- Nyamu-Musembi, C. (2008) 'Breathing life into dead theories about property rights in rural Africa: lessons from Kenya' in B. Englert and E. Daley (eds), *Women's Land Rights and Privatization in Eastern Africa*. Suffolk: James Currey.
- Okoth-Ogendo, H. W. O. (1991) *Tenants of the Crown: evolution of agrarian law and institutions in Kenya*. Nairobi: ACTS Press.
- Opalo, K. (2021) 'Political development in East Africa'. Nairobi Annual Lecture, British Institute in Eastern Africa, 14 April <<https://www.biea.ac.uk/event/biea-annual-lecture/>>, accessed 13 June 2021.
- Oxfam (2018) 'Kenya: extreme inequality in numbers', Oxfam International Extreme Inequality and Poverty Campaign <<https://oxf.am/2BEqheD>>, accessed 15 February 2022.
- Paller, J. (2019) 'Building permanence: fire outbreaks and emergent tenure security in urban Ghana', *Africa* 89 (3): 437–56.
- Paterson, D. (1984) 'Kinship, land, and community: the moral foundations of the Abaluhya of East Bunyore (Kenya)'. PhD thesis, University of Washington.
- Peluso, N. L. and J. Ribot (2020) 'Postscript: a theory of access revisited', *Society and Natural Resources* 33 (2): 300–6.
- Peters, P. (2002) 'Bewitching land: the role of land disputes in converting kin to strangers and in class formation in Malawi', *Journal of Southern African Studies* 28 (1): 155–78.
- Reece, K. M. (2019) '"We are seeing things": recognition, risk and reproducing kinship in Botswana's time of AIDS', *Africa* 89 (1): 40–60.
- Rodima-Taylor, D. (2021) 'Digitalizing land administration: the geographies and temporalities of infrastructural promise', *Geoforum* 122: 140–51.
- Scoones, I., R. Hall, S. M. Borras Jr, B. White and W. Wolford (2013) 'The politics of evidence: methodologies for understanding the global land rush', *Journal of Peasant Studies* 40 (3): 469–83.
- Scott, J. (2005) 'Afterword to "moral economies, state spaces, and categorical violence"', *American Anthropologist* 107 (3): 395–402.
- Shipton, P. (1988) 'The Kenya land tenure reform: misunderstandings in the public creation of private property' in R. Downs and S. P. Reyna (eds), *Land and Society in Contemporary Africa*. Hanover NH: University Press of New England.
- Shipton, P. (2009) *Mortgaging the Ancestors: ideologies of attachment in Africa*. New Haven CT: Yale University Press.

- Shipton, P. and M. Goheen (1992) 'Understanding African land-holding: power, wealth, and meaning', *Africa* 62 (3): 307–25.
- Shipton, P. and D. Rodima-Taylor (2015) 'Land tenure' in J. D. Wright (ed.), *International Encyclopedia of the Social and Behavioral Sciences*, second edition, vol. 13. Oxford: Elsevier.
- Sorrenson, M. P. K. (1967) *Land Reform in the Kikuyu Country: a study in government policy*. Nairobi and London: Oxford University Press.
- Swynnerton, R. J. M. (1954) *A Plan to Intensify the Development of African Agriculture in Kenya*. Nairobi: Colony and Protectorate of Kenya.
- Tseng, T. W. J., B. E. Robinson, M. F. Bellemare *et al.* (2020) 'Influence of land tenure interventions on human well-being and environmental outcomes', *Nature Sustainability*, 7 December.
- Wily, L. A. (2012) 'Customary land tenure in the modern world', Rights and Resources Initiative <<https://rightsandresources.org/wp-content/exported-pdf/rightstoresourcesincrisiscompiledenglish.pdf>>, accessed 12 January 2024.
- World Bank (2003) *Land Policies for Growth and Poverty Reduction*. Washington DC: World Bank.
- World Bank (2022) 'Rural population'. Available at <<https://data.worldbank.org/indicator/SP.RUR.TOTL.ZS>>, accessed 2 April 2024.

Angelique Haugerud is Professor Emerita of Anthropology at Rutgers University and former editor-in-chief of *American Ethnologist* and *Africa Today*. She is the author of *The Culture of Politics in Modern Kenya* (Cambridge University Press, 1995) and *No Billionaire Left Behind: satirical activism in America* (Stanford University Press, 2013).

Caroline P. Mwangi is Systems Analyst at Loyola University Chicago. She holds MBA and BA degrees and has extensive ethnographic research experience on rural economy and agroforestry in Kenya. After completing her primary and secondary education in Kenya, she was awarded a four-year scholarship to St Lawrence University (Canton, New York).