



Rethinking communal land governance in the Great Lakes Region of Central Africa

Klara Claessens 

Department of Earth and Environmental Sciences,
Division of Geography and Tourism, Katholieke
Universiteit Leuven, Leuven, Belgium

Aymar Nyenyezi Bisoka

Department of Sociology and Anthropology, Université de Mons, Mons,
Belgium; Department of Conflict and Development Studies, Ghent
University, Ghent, Belgium

An Ansoms

Centre d'études du développement, Université Catholique de Louvain,
Louvain-la-Neuve, Belgium

Abstract: In the Great Lakes region of Central Africa, land-use rights underwent profound changes following processes of colonization, commodification and conflict, leading to an increased individualization and privatization of tenure. Despite these evolutions, customary tenure continues to be described as a common-property system managed through a strong hierarchical and tribute-based land allocation mechanism. This central place of the commons in policy discourses either stems from a romantic, often Western, notion on communal land governance or from a neoliberal privatization discourse that frames communal land governance as chaotic and non-productive. In this article, we will use cases from Eastern DRC, Burundi and Rwanda to demonstrate how communal land governance has always existed in the region, but in modalities that do not correspond to the notions found in policy discourses. These cases demonstrate how the memory and the actual practice of communal land governance continues to play a role in contemporary land access negotiations. Through a process of institutional bricolage, the discourse of the, often imaginary, commons is

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used by different actors to legitimize the restructuring of land claims in their favour. Hence, the commons do not correspond to an idealized or normative situation, but they are rather a starting point to rethink land governance in a contextualized socio-historical perspective.

Key words: Communal land governance, Great Lakes Region of Central Africa, land governance, land reform, natural resource governance

Introduction

In the Great Lakes region of Central Africa, land-use rights underwent profound changes as a result of processes of colonization, commodification and conflict, leading to increased individualization and privatization of tenure. Since the early 2000s, Burundi, DRC and Rwanda embarked upon a process of land reform. In 2005, Rwanda adopted its new land law which focused mainly on tenure security through land registration. This enabled the government to implement a set of agricultural policies, in line with the ambition to launch a Green Revolution (Ansoms et al., 2018). In Burundi, the 2012 land code proposed a model of decentralized land management, organized at municipal level but under control of the central government. The reformed policies promised to take into account communal land governance practices through a locally embedded system of certification, recognizing private and collective land appropriation (Nyenyenzi and Panait, 2014). Finally, in the DRC, the 2012 reform document pinpointed the many challenges the new land law should address in order to secure land tenure (République Démocratique du Congo, Ministère des Affaires Foncières, 2013). However, the land reform in the DRC came to a standstill due to a lack of political stability (Nyenyenzi and Ansoms, 2015a).

All three reform processes share two common elements: (1) the introduction of decentralized land governance and (2) the need to deal with local land arrangements that align to or interact with ideas of communal property. These proclaimed policy ambitions should be seen as part of a broader economic vision stressing the link between good land governance and poverty reduction. The overarching policy paradigm promotes private

ownership to enhance tenure security as a way to facilitate access to investment and to increase productivity and economic growth. At the same time, however, the idea of communal land governance still appears within policy circles in various ways. In fact, two discourses on the commons in Sub-Saharan Africa can be distinguished. The first one romanticizes the commons. It highlights the potential for communal land management in terms of economic productivity, conflict resolution and ecological sustainability. The second discourse defends private land appropriation and uses an evolutionary perspective on property rights to portray collective governance as traditional, chaotic and unproductive.

In this article, we reflect upon struggles and negotiations around agricultural land and pastures in Eastern DRC, Rwanda and Burundi. Our analysis demonstrates how communal land governance has always existed and continues to prevail. However, the on-the-ground modalities of communal land governance do often not correspond to the archetypes presented by the two dominant discourses. In Eastern DRC, only small lots of communal land remain. However, the remembrance of communal land governance is called upon to claim land-user rights in an increasingly individualized system. In Rwanda, the government has 'recommunalized' access to land rights in the marshlands, by redirecting individual user rights to cooperatives who insert themselves into the overarching rural development vision of the Rwandan government. This has led to increased exclusion of poorer population groups. In Burundi, the ambiguous legal status of the marshlands enable powerful actors to strategically mobilize discourses referring to both common and private land arrangements

to obtain and strengthen control over the land. These cases illustrate how the memory and the actual practice of communal land governance continue to play a role in contemporary land access negotiations, even in a context of extreme scarcity and increased individualization. The powerful discourse of the often imaginary commons serves as a 'historical software', called upon by actors to legitimize the restructuring of land claims in their favour. Hence, today's on-the-ground mobilization of *the commons* discourse allows us to rethink land governance in a contextualized socio-historical perspective.

The data in this paper were collected in long-term research projects on land governance and access to natural resources in the Great Lakes Region between 2006 and 2016. We combine empirical evidence collected by all three authors individually. Each of us has used an in-depth inductive case-study approach to study the socio-institutional dynamics around land access negotiations and practices, mainly through interviews and focus group discussions with relevant stakeholders. The cases were selected from a wider range of cases studying land access practices in the region using a purposive sampling strategy based on the actors' strategic use of communal land governance practices to negotiate and maintain access. They include cases on marchlands (in the province of Cibitoke, Burundi (marches of Rugombo), the district of Rusizi, Rwanda (marches of Bugarama), the territory of Walungu, DRC (marches of Kamanyola) and highlands (in the territory of Kalehe, DRC). Consequently, this paper only includes evidence from areas where communal land governance, in all its different manifestations and operational modes, is being called upon in local land access struggles. The paper does not intend to generalize its conclusion to the entire region or continent but we believe that the presented approach allows to unravel ongoing dynamics of land governance that are significant in the region. It is our intention to inspire policy makers to look at *the commons* beyond a romanticized or evolutionary perspective.

The Commons, Power Relations and Bricolage

The concepts of commons often refer to the physical quality of shared resources where it is costly or impossible to exclude users. However, the term is also widely used to refer to common property systems, community-based resource governance and the specific institutionalized setups that allow members of a community to share resources (Dardot and Laval, 2014; Vivero-Pol et al., 2018). This second conceptualization does not consider commons as material but rather as 'self-regulated social arrangements to govern material and immaterial resources deemed essential for all and are place- and time-restricted and vary according to different societies, circumstances and technological developments' (Vivero-Pol et al., 2018, p. 8). This definition puts human/nature relations central in the analysis which allows taking into account the specific local arenas in which governance arrangements are negotiated and commons are defined. Following this contextualized approach, a universal definition of the commons is impossible and even undesirable. However, in the very rich literature on the governance of the commons, certain utilitarian perspectives on common property systems seem to dominate the debate. These perspective are based on two theoretical claims: (1) common property systems inevitably lead to overexploitation; and (2) such systems are inherently under-productive due to a lack of incentives for farmers to invest in sustainable land use.

A first theoretical claim was elaborated by Hardin (1968). In his 'Tragedy of the Commons', he describes the way in which free access to limited resources inevitably leads to overexploitation. Hardin pictures a village of cattle breeders, grazing their animals in a meadow held under a common property regime. He argues how each individual has a personal interest in maximizing his use of the grasslands for own profit, whereas the operational costs are distributed between the individual users.

As a result, in Hardin's view, competition for access to limited resources inevitably results in overexploitation and degradation. To counter this tragedy of the commons, two policy solutions have been put forward: (1) nationalization, entailing the intervention of the state to regulate access to particular resources and (2) privatization, converting common resources into private property that encourages individual owners to manage the land responsibly (Ostrom, 1990). For both options, the role of the state is seen as key: either as the key regulator of access to resources, or as the main actor in establishing secure private property rights.

The second claim sees common property governance as leading to under-productivity. According to proponents of this theory (Deininger and Feder, 1998), economic and social institutions adapt to changing circumstances in line with an inherent logic of becoming as efficient as possible. When demographic pressure and commercialization of resources enhance the need for investment, an evolutionary process in resource management systems automatically traces the path for an evolution towards a private property system in which land users use their resource as a collateral. The introduction of private property rights will subsequently increase tenure security and, hence, investment and productivity. The state is considered as key in providing the guarantees that private property rights are respected.

These two theoretical assertions have been criticized by neo-institutional (Ostrom, 1990) and critical sociological (Dardot and Laval, 2014) literature. Neo-institutionalists, on the one hand, criticize the 'tragedy of the commons' hypothesis for its lack of contextualization and its alignment to one-size-fits-all panacea solutions. Authors within this stream of literature point to numerous examples where local communities were able to efficiently organize the governance of commons. They accentuate the possibility of a third way: efficient resource management by its users. According to Ostrom, there are several alternative institutions—beyond the

state (nationalization) or the firm (privatization)—who can create incentives for individual resource users to align to sustainable collective resource management (Ostrom, 1990). This makes it possible to rehabilitate the very idea of common goods.

In turn, Dardot and Laval (2014) agree that 'a set of rules can encourage individuals to renounce to opportunistic behaviours and to adopt a cooperative conduct' (Dardot and Laval, 2014, p. 152, own translation). Ostrom's framework is therefore relevant since '[t]he ability to collectively elaborate the rules of use is itself dependent on a system of community-specific norms and the possibility of communicative exchanges between individuals' (Dardot and Laval, 2014, p. 154, own translation). However, for Dardot and Laval (2014), Ostrom's analysis remains too entrenched in a form of individualism and essentialism. Not only do neo-institutionalists not question private property appropriation as a principle, but they also seem to consider the concept of property as being appropriated *per sé*. For Dardot and Laval, the commons are not a priori to be considered as 'property'; for them, it is rather the man-made activities and the institutional set-up that make things 'common' (*ibid.*). The commons then become 'a political principle from which one must build common goods to preserve, extend and sustain them' (Dardot and Laval, 2014, p. 49, own translation). In addition, they add that such political principles—and the institutions that support them—are not free from power relations (Le Roy et al., 1996; Dardot and Laval, 2014). As a result, institutional change is a nonlinear process of creative bricolage (Cleaver, 2012) in which commons are not *per se* fair and equitable but rather subject to power relations. Also, the consideration of something being a 'common good' is never definitively established but rather continuously negotiated and contested. These two intrinsic qualities (power relations and bricolage) deserve extra attention.

First, Dardot and Laval (2014) show that the modalities of access to resources are not

intrinsically linked to the nature of the resource but rather to the power relations that surround access to or exclusion from that resource. In the same geographical space, different social spaces coexist and each of them produces and enforces rules. The rules of one social space constantly influence the rules in surrounding social spaces, giving each social space a semi-autonomous character (Moore, 1978; Griffiths, 1986). Such approach, seeing different law-producing social fields without attributing a hierarchy between them, is referred to as *legal pluralism* (von Benda-Beckmann and von Benda-Beckmann, 2006; Griffiths, 1986). In the legal pluralism literature, the state is not the only actor creating and enforcing rights. The establishment of a normative framework and the capacity to enforce it rather depends on the power relations between different actors operating in and between the different social spaces.

A second quality of the commons is their nonlinear, dynamic evolution. The understanding of 'the commons' evolves throughout a dynamic process in which individual actors—'bricoleurs'—build their own mechanisms of resource governance, drawing upon existing normative frameworks. While conventional institutional approaches 'tend to neglect complex and changing interactions among community members, state providers and services', empirical evidence rather shows how 'people consciously and non-consciously draw on existing social formulae [...] to patch or piece together institutions in response to changing situations' (Cleaver, 2012, p. 10). These processes of institutional bricolage are carried out by actors that are rooted in their particular social context. They include daily practices, improvisations and innovations. Institutional bricolage is an inevitably authoritarian process with unequal outcomes shaped by power relations. Its outcome is therefore not always benign since 'the creativity and diversity of institutional design and practice creates room for manoeuvre and new possibilities for some people but simultaneously

reproduces and even reinforces social inequalities for others' (Cleaver, 2012, p. 15).

Institutional bricolage offers a critical perspective on classic neo-institutionalism as it deepens our understanding of institutional processes (whereby actors actively shape institutional rules in an efficient and durable way) and actors' frame of reference during these processes. However, while neo-institutionalism studies this process from the perspective of rational choice, we propose to understand institutional bricolage in a more structuralist manner. When actors make and negotiate rules, they consciously or unconsciously refer to broader systems of meaning (including ontology, myths, history, etc.) (Cleaver, 2012). As a result, they draw upon invisible systems in ways that exceed individual rationalities. In order to fully understand institutional negotiations, one should thus include both the individual interests at stake, but also their broader systems of representation. In this sense, the mobilization of *institutional bricolage* as a concept in our case study analysis is original since it also looks at the broader structures and meaning systems that guide institutional processes, including cultural and historical references, ontologies and myths. Accordingly, in this article, we consider the commons as created by man-made political processes and specific institutional setups, loaded with unequal power relations and created as the result of a perpetual process of bricolage.

Communal Land Governance in the Great Lakes Region

There is a vast literature on land tenure in Africa. Mainstream thinking aligns to a dualistic view on land access, with, on the one hand, a modern formalized land right system based on the principle of private property rights introduced since colonial rule; and, on the other hand, customary land law, allegedly founded in historical principles of common property and management. However, a historical reading of institutional processes in land governance on the continent shows a far more

complex picture. Several authors (Nyenyezi, 2016; Claessens, 2017) have pointed to the complexity embedded within land relations: (1) of pluralism instead of dualism of land rights; (2) of overlapping mutually interacting rules instead of parallel isolated rules; and (3) of the complexity embedded within a wide bundle of customary rights instead of the simplistic vision of one homogeneous customary law. Nevertheless, it was the dualistic view of land tenure that shaped contemporary visions on *the commons*. A historical and contextualized reading of land governance in the region is thus important to understand how governance of *the commons* is ultimately the result of a process of institutional bricolage in a legal pluralistic system governed by power relations.

Such historical perspective should start before colonial times. The focus of most historical studies on precolonial land governance in central Africa concentrates on the central role of the King, or *Mwami*. Royalty as an institution provided an ideological framework that offered legitimacy to society's hierarchical order and was embedded within all-encompassing symbolism, incorporating the sacred characteristics of the royalty (Lemarchand, 1970). This underlying cosmology, beyond the administrative and political organization of society within land relations, is often neglected in the literature.

Since the colonial period, local land governance practices have been analysed through a western lens that took private property systems as the benchmark. This lens was built around a strict division between a 'traditional' customary system and a 'modern' system of private appropriation and took the subdivision of land into different estates as a starting point. This perspective reduced land governance to binary classifications: traditional versus modern, individual versus collective rights and private versus public land. As a result, the colonial view of colonial land governance reduced it to two main features, while neglecting the wider underlying cosmology. A first feature

turned around the figure of the *mwami*—as the 'representative [...] of a supreme political and religious power' (Ntampaka, 2009, p. 12). The second feature focused upon the importance of the first occupant (Pèlerin et al., 2011, p. 32). It was assumed that the clan or lineage first clearing the territory had by definition obtained the political power to grant land rights. The clan is a set of families that, fictitiously or not, descends from a common ancestor. According to historians, this system might possibly be traced back to the fourteenth century (Gahama, 2001). At the time of the first occupants, territory was still very sparsely populated. Consequently, there was no need for advanced political and social structures. Land was managed collectively and membership to the clan or lineage provided access. During colonial times, the myths around the first occupants were often used to legitimize certain claims over others.

These two main features of precolonial land governance were institutionalized—through the colonial lens—as the essential features of 'customary law'. Only land inhabited or cultivated by local communities was considered as property¹ of the 'natives' by the colonial administration (De Clerk, 1971). All other territory was considered as *vacant*, and de facto inserted in a western 'modern' property model. At the same time, this did not impede the colonial government to interfere with the management of 'native' land. This dual vision of land dynamics continued after independence: in the postcolonial period, customary land rights were still configured in line with the same dual colonial logic.

As our case studies will illustrate, this assumed duality in land governance systems obscures a more complex reality in which the creation and governance of the commons have their own locally specific historical trajectory. We will illustrate how a perpetual process of bricolage, negotiation and reconfiguration of land access arrangements and power relations has structurally transformed land governance.

Contemporary Communal Land Governance in the Great Lakes Region

Crossborder Land Conflicts on Marshes in Burundi and the DRC

Burundi has experienced several ethnic conflicts and civil war since its independence in the 1960s. In 2000, peace talks culminated in a historical peace agreement, followed by a 3-year political transition. In this period, land conflicts became widespread since thousands of Hutu who had fled the country returned home. Their lands had been systematically occupied by their Tutsi neighbours and then taken over by the administration who either sold the land or illegally expropriated it for the benefit of the state (Kohlhagen, 2011; Nyenyezi and Ansoms, 2015b). Some specific provisions in the peace agreement were elaborated in order to address the land question of returning refugees. However, the special commission attributed with the legitimacy to deal with conflict-related land conflicts was highly politicized and never really became operational (Kohlhagen 2010, 2011; Nyenyezi and Giraud, 2020). In 2003, under a transitional government, a land reform process was put in place to deal with land conflicts but this reform mainly focussed on land registration and much less on conflict resolution, prevention and enforcement.

The situation was even more complex in marshlands, considered as common land despite the complexity of laws and practices governing its access. In most narratives, swamps were considered common goods before colonization. Since colonization, the economic value of the marshland gradually increased and the colonial administration requisitioned part of the marshlands for food production, in order to fight famines (Bikorindagara, 1980 in Amani, 2009). Also other marches became increasingly solicited, when arable land became more scarce and fertility declined. Consequently, marshland cultivation gained importance in the livelihood strategies of many farmers. However, despite processes of commodification and privatization, farmers still link access rights to

marshlands to being the first one to clear the land. The right to claim access to the marshes is thus—in the eyes of most rural populations—related to the physical investment of the person having put the marshland to use, rather than upon the idea of exclusive private property rights.

The legal status of the marshlands was never made entirely clear. According to the land code of 1986, the users rights of the marsh farmers were equated to private property rights. But in practice, the marshes continued to belong either to the communities or to the state. The same land code also allowed communal administration to confiscate marshes for food production in the fight against food insecurity. This ambiguity resulted in conflicts between farmers and elites who often tried to monopolize access to the marshes as a means to extend their personal networks and power base. The legal ambiguity also prevails in the new land code of 2011. Whereas article 441 recognizes private ownership of marshlands, article 444 states that marshlands are unlikely to be registered. This is rather contradictory since private property cannot be recognized without formal registration. In fact, this example points to similar forms of ambiguity within the general paradigm in which contemporary African land reforms are taking place. Many land reforms promote private ownership of land as a key principle, but also proclaim that local practices—relating to rationalities of common ownerships—should be taken into account. The 2011 land code is full of such paradoxes. The same land code allows for the appropriation of marches by third parties without any restorative measures for land formerly confiscated by administrators. This is the basis for many land conflicts between current and former ‘owners’ of marshes.

As a result of the confusing legal status of marshland, different parties involved in land conflicts can relate to different fora in order to legitimize their access and property claims; the 1986 land code, the 2011 land code, ‘traditional’ and local practices. The outcome is often not

so much based upon who is ‘right’ or ‘wrong’, but rather a matter of influence, enforcement capacity and power. This situation has made it possible for local elites to ‘grab’ marshlands and distribute them to their local networks (Nyenyezi and Ansoms, 2015b). Although these elites mainly use the land to extend their power base, the farmer population needs these marshes to sustain their livelihoods. This was also observed in the Northern province of Burundi where we conducted our research. Over the years, local farmers lost access to nearby marshland as a result of land grabbing by local elites and of state authorities claiming control over marshland for state-defined objectives. Since 2010, this situation worsened as a result of land conflicts involving returning refugees. Next to these political reasons, competition over marshlands intensifies because drought is chronic in this part of the country and the irrigated marshlands play an important role in local food security strategies.

Since large groups of the Burundian farmers could no longer access the marshlands, they organized themselves to cultivate marshland in Eastern DRC, on the other side of the border. In exchange for livestock, they were granted access to the Congolese marshlands for an agricultural season. In Eastern DRC, marshes are also considered as common property. They belong to the traditional chief, or *Mwami*, who is the guardian of a specific territory which he manages through a hierarchical network of dependents. He grants the land of the marshes to his subjects to cultivate them. When farmers manage to clear the land themselves, they can continue to use it as long as they respect the authority of the *Mwami* by offering cows in return for seasonal access to land. The *Mwami* remains thus the institution that regulates the use and access to all non-alienable common land. Interestingly, the narrative on the link between land access and the *Mwami* continues to be situated in a precolonial imagination based on common land ownership; and for a long time, the cows offered by the Congolese farmers were taken

to common pastures for grazing. However, in reality, other types of power relations also play a major role in this system of land allocation. Land grabbing by elites close to the *Mwami* are prevalent (Claessens, 2017; Mushagalusha Mudinga, 2017; Claessens et al., 2014).

Since 1996, however, the Burundian farmers became involved in a broader conflict. Members of other pastoralist communities—who wanted to use the *Mwami*’s pastures under a system of transhumance—were obliged to pay a fee called *itulo*. Initially the *itulo* was a symbolic gesture, but throughout the years, it had become an important source of income for customary authorities—including the broader network of elites around the *Mwami*. These increasing access fees had led to protests by pastoralists, to the point that some of the them took up arms to protect their livestock. Some of these pastoralist took the opportunity to exempt themselves from paying the *itulo*, destroying farmers’ crops and taking control over the common pastures. This, in turn, led to armed confrontations between farmer and pastoralist militia.

In this context, some of the cows offered by the Burundian farmers disappeared. The Burundian farmers insisted on continuing to farm the marshland in the DRC. However, the Congolese elites controlling the land (including customary chiefs, commercial actors, state officials and large-scale land owners) denied them access, arguing that the cows had disappeared and that they believed Burundian farmers had plotted with Congolese militia to steal the livestock. The Congolese elites also added that the number of cows offered by the Burundian farmers no longer covered the increasing royalty costs. The Burundian farmers were refused further access to the marshes.

This case illustrates how the inherent contradictions in marshland governance systems—both in Burundi, as well as in the DRC—play a huge role in the complex power game between actors on the ground. Powerful actors mobilize both discourses—referring to private or common land arrangements—in order to

establish their control over marshlands. As a result, the governance of Burundian and Congolese marshlands is shaped through a process of institutional bricolage where actors draw on both institutional and symbolic resources to put in place rules and regulations. These process of continuous negotiation or bricolage go beyond a renegotiation of institutional arrangements but are deeply rooted in historical references to land governance and the role of the State as guarantor of a common purpose (food security) in Burundi, or the figure of the Mwami as the supreme political and religious power in the DRC.

Land Conflicts in Kalehe's Highlands, Eastern DRC

In the DRC, the land reform process is still ongoing. One of the focus points on the reform agenda is the ambiguous legal status of customary land (République Démocratique du Congo, Ministère des Affaires Foncières, 2013). Since the adoption of the 1973 land law, the lack of clear rules with regard to the management of communal land has been named as one of the problems contributing the proliferation of land conflicts (Mugangu Matabaro, 2008). The 1973 land law declared all land to be property of the state. Farmers and investors can apply for one of two kinds of certificates: a concession in perpetuity (only available for Congolese citizens) or an ordinary concession (Mugangu Matabaro, 2008). Article 389 foresees, at least on paper, some special provision for land held under customary tenure. However, until now, the presidential decree necessary to further specify customary land governance arrangements has never been promulgated. Consequently, there is confusion around the legal status of customary land, around the rights of the customary land users, and around which authorities are responsible for governing customary lands (Mugangu Matabaro, 2008). Because of these confusions—interacting with the weak implementation capacity of the state—the ambiguities within the legal duality between state land and customary land

persisted (Vlassenroot and Huggins, 2005). Despite the nationalization of land ownership in the 1973, customary land governance continues to play a role in everyday local land governance in the DRC.

Two important remarks have to be made when talking about the continuation of this de facto duality. First, this does not mean that land relations did not evolve. For the purpose of this case study, it is important to point to the shifting roles of customary authorities. With increasing commodification and privatization of land relations, the role of customary authorities as traditional guardians of the land was undermined. They had to reposition themselves in a rapidly changing institutional landscape. Many local chiefs tried to maintain their position in society by becoming gatekeepers during a transition towards more privatized land tenure systems. Traditional patrimonial relations were gradually replaced by patron–client relationship based on wealth accumulation and political control. Land remained an important resource in order to maintain these patrimonial relations (Vlassenroot and Huggins, 2005).

Second, this duality between customary and state land only exists in legal terms. In practice, a wide variety of locally negotiated land arrangements exists; with their roots in history but their branches and leaves strongly adapted to the local specifics of each locality (Claessens, 2017). These local arrangements often contain elements from both the statutory and the customary realm, which makes them neither exclusively state-based nor customary. Also our legal pluralist approach defies the idea of ‘pure’ categories, but recognizes their importance as references points in the everyday practices of resource users and the different imaginaries they evoke.

Indeed, the imaginary of customary tenure is still very much present in contemporary land governance in the DRC. As was explained in the previous case study, it is based on ideas of communal ownership regulated by the customary authority, or *Mwami*, as the guarantor of

the land and his subjects. The principle of the first settler invokes non-alienable users rights and, as such, the authority and ownership of the Mwami continues to be recognized through the payment of customary tributes. Even in areas where all land has been extracted from the customary domain, reminiscent of this powerful narrative are being called upon by different parties to (re)gain access to the land.

In Kalehe's highlands around the mining town of Numbi, located in the province of South Kivu, land conflicts are rife. The colonial exploitation of the region started relatively late, in the 1950s. Customarily, the land belonged to the Mwami of Buzi and—at the time—it was still covered with vast bamboo forests. Colonial exploitation started in the early 1950s under the direction of the CNKi, a private body that organized the colonization of the Kivu region (Jewsiewicki, 1979; Peemans, 2014). Under the initiative of the Belgian colonial administration, labour was sought to clear the forest and to work on CNKi's concession. This labour force consisted mostly of Kinyarwanda speakers, or Banyarwanda. Gradually, they started to obtain land by means of a customary *kalinzi* contract through which they became recognized as the first settlers. The *kalinzi* arrangement involved the transfer of non-alienable inheritable user rights—handed by the Mwami—to an individual and his descendants in exchange for a customary tribute, mostly in the form of cattle (Mafikiri Tsongo, 1994). At that time, it was still possible to acquire relatively large tracts of land and the presence of these Banyarwanda did not result in conflict with the original population.

In 1960, the CNKi was dissolved (Kisangani and Bobb, 2010) and its large concession fell into the hands of two private actors: a local businessman and a local customary chief. The latter played a dual role. As customary chief, he was the custodian of the customary land. As *acquéreur*, he obtained the title of a concession managed through state law. Throughout the 1960s and 1970s, the Mwami distributed access rights to the customary reserves through the

kalinzi arrangement. However, the demand for land gradually started to increase. To get rid of non-active holders of the customary land, the Mwami regularly established a second *kalinzi* on the same land. People who acquired land during this second wave of *kalinzi* were often better connected and regularly opted for transforming their customary contracts into land titles. The establishment of formal land titles often took place with the complicity of the customary chief (Claessens, 2017).

This double *kalinzi* arrangements became a breeding ground for conflicts. Since the first group of occupants were mainly Hutu, while a significant number of the second group were Tutsi, conflicts moreover took an ethnic turn. During the course of the 1990s, competition for land further increased. Moreover, the opening up of the political landscape in the early 1990s revived old identity claims that were frequently channelled through land entitlements (Reyntjens, 2009; Vlassenroot, 2004). This gave rise to violent clashes between 'autochthonous' and 'allochthonous' groups. Ethnic cleavages were further exacerbated in 1994, when a large group of Rwandan Hutu refugees fled Rwanda in fear of retaliations after the 1994 Rwandan genocide. When they arrived in South Kivu, this, in turn, prompted a reverse migratory wave of Congolese Tutsi to Rwanda. As they left the DRC, they either sold their land, abandoned it or appointed a local caretaker. These events severely affected contemporary land relations. Two decades later, around the time of our research, many of the Tutsi refugees were returning to the DRC. Some caretakers no longer acknowledged the property claims of the Tutsi returnees, or had sold or divided the land in their absence. In addition, some abandoned land had been occupied by Hutu families, making ownership claims based on the first *kalinzi* contract (Claessens, 2017).

The overall picture is thus very complex. Many land conflicts continue to persist between many claimants. For original owners, reference is often made to the original *kalinzi*

contract, partly based on the principle of the first settler and the first clearer of the forest. However, reference to the commons—and the customary arrangements connected to governance of the commons—is only one of the possible registers used to validate land access and ownership claims. In fact, the imaginary of the commons is rather operationalized in a complex web of overlapping and mutually influencing social fields where actors on the ground behave as bricoleurs, putting their eggs in different baskets depending on their personal networks, access to information, access to technology and so on.

The shifting role of the customary authority also serves as an excellent example of this process of bricolage. Given that customary reserves in Kalehe's highland are almost entirely depleted, customary authorities are increasingly involved in more statutory, 'modern', land access practices (Claessens, 2017). Yet, they continue to validate their role as *guardians of the land* and they discursively and practically instrumentalize the idea of the commons to uphold and legitimize this role. Similarly, customary subjects continue to uphold the idea of the commons—and the surrounding institutional arrangements—as a potential channel through which they orient their land claims. References to the commons are thus being used by both customary authorities and 'subjects' of the customary system to legitimize claims over land, albeit with very different outcomes.

The 'Commons' as a Discourse for Modernized Agriculture in Rwanda

Since 2008, Rwanda has embarked on an ambitious mission to modernize the agrarian sector through a profound reengineering of its rural economy (Ansoms et al., 2014a; Government of Rwanda, 2004). Since then, the country has implemented a range of Green Revolution policies. Within the reforms, the marshland zones played an important role as a pilot area in which a variety of policy measures were tested: monocropping arrangements,

concentrated on cash crops, through joint production patterns (Huggins, 2017).

In fact, swamplands had always had a special status. Traditionally, they were part of the commons of local communities, used for cattle grazing, fishing and hunting (Ansoms and Murison, 2012). However, since the 1970s, rising population pressure pushed farmers to clear parts of the swamplands in order to transform them into arable zones. But given the frequent floodings, land rights were flexible, depending on who had the capacity to prepare the land for cultivation. During the 1970s–1980s, however, farmers engaged in more durable land occupation in the marshes. Claims were mostly based on the first settler principle, and rights were passed on from one generation to the other. This led to a *de facto* transformation of the principle of the commons to privately owned land. By the mid-1970s, the government declared swampland zones to become state property, and in certain areas, authorities reclaimed the land for large-scale agrarian projects. At the same time, local authorities in certain locations reorganized the swamplands, granting user rights to associations that were mainly managed at a local level. By the early 1980s, the institutional landscape regulating land rights in the marshlands was thus composed of an amalgam of mechanisms in which the idea of marshlands as commons was mixed with the range of practices in which marshland zones had been appropriated by individuals, local organizations and state authorities of all different levels (Nyenyenzi, 2016; Ansoms et al., 2014b).

As from 1990 onwards up until the genocide in 1994, most farmers left their marshland plots uncultivated. Marshlands became zones of refuge in which genocide victims hid, and—after the war—zones of insecurity and banditry. It took several years before farmers returned to cultivation in the marshland zones. Occupation again happened on a first-come first-served basis, mixed with some people reclaiming historical customary rights. The main access condition in order to occupy

marshland plots laid in having the physical capacity to cultivate whatever one claimed. By the early 2000s, most marshland zones had been re-occupied by the population and were used for food crop production. The land was often mentioned as of extreme importance for local communities' food security. However, the distribution of land rights was often quite unequal—and particularly young people or returning refugees had great difficulties in gaining access to the zone (Huggins, 2017).

From 2005 onwards, the Rwandan government became increasingly interested in the economic potential of the marshland zones. Although some were still left unoccupied, other zones were cultivated in what the administration framed as an 'unorganized haphazardous way'. Many marshlands were prone to the come-and-go of flooding; a more efficient way of exploiting the productive potential of the land was expected to occur through organizing coordinated irrigation (Ansoms et al., 2014b).

As from 2006 onwards, the cultivation patterns in marshland zones changed considerably. The 2005 land law stipulated clearly that marshland is the property of the state, with no private property rights to be allocated to individuals. Local authorities were mandated by the Rwandan government to allocate user rights on marshland zones to local associations. Officials often referred to the idea of marshlands as commons in order to legitimize the transformation from informal individual ownership rights to formally coordinated collective user rights (Ansoms et al., 2018). At the same time, the reorganization of land rights concurred with a change in production patterns: farmer organizations were increasingly incited to concentrate on high-value market-oriented cash crops. The relative advantage of collectivities in organizing coordinated production patterns, and in overcoming tragedy-of-the-commons type problems, was highly accentuated in the discourse of both local authorities and organization coordinators as a legitimizing factor (*ibid.*). International donors increasingly took interest in providing large-scale

irrigation projects with the necessary financial aid. Marshland zones that had been subjected to frequent floodings were transformed into organized checkerboard zones in which land and water channels alternated.

The transition from individual to collective user rights could have had emancipatory potential. In certain settings, marshlands had been—for generations—dominated by a limited group of people without any chances for newcomers or younger generations to gain access (Musahara and Huggin, 2005). And indeed, in some zones, the reorganization led to more inclusion in terms of access rights. However, two mechanisms impeded this from happening on a large scale. First, access to information around the modalities for this reorganization was very uneven. Although some pioneering actors—often well-connected, rich people—were already creating 'farmer' organizations and acquiring land concessions from local authorities, ordinary farmers lagged behind lacking timely information and insights into how the reorganization would occur. Second, these pioneers, transformed themselves into association coordinators, often imposing an access fee for joining the association. This access fee was justified as an investment in the common fund facilitating the purchase of agricultural inputs (seeds and fertilizers). In addition, the agricultural role of the association was often combined with a tontine,² demanding financial contributions to its members on a regular basis. As a result, access to marshland zones was now determined by having the physical labour force to cultivate it, but also by having the necessary financial means to invest in it.

As from 2009 onwards, the professionalization of the associational landscape had—again—a profound impact on the organization of land rights in the marshland zones (Huggins, 2013). Local associations were obliged to adhere to larger, formally registered and professionally managed cooperatives. Crop choices were no longer left to the decisional authority of the associational structures themselves, but

imposed by authorities—often through a regionally coordinated approach. The cooperatives have also been inserted into more stringent performance-oriented production patterns in close coordination with the various administrative levels of the zones in which the cooperative intervene. The associational leaders, often co-opted from the better-educated social categories of the local communities, were replaced by professional managers as cooperatives' leaders (Government of Rwanda, 2006).

Overall, the professionalism with which the collective structures were managed increased, incidences of corruption decreased and the procedural aspects of associational life were respected to a much greater extent (Leegwater, 2015; Huggins, 2014). However, greater efficiency in the organizational process came at the expense of reduced levels of local ownership. First, the reorganization of the associational landscape pushed associations into cooperative structures, resulting in increased exclusion. Many farmers did not have the financial means to 'buy themselves into' the cooperative structures. At the same time, a considerable group of actors bought cultivation rights on marshland plots while hiring the physical labour capacity to perform the necessary work. Consequently, the margin of manoeuvre for local farmers in taking part in the decision-making process has decreased (Ansoms et al., 2014a). Cooperative managers are less attached to local-level preoccupations and are dependent upon authorities' decisions in terms of crop choice, market opportunities and cultivation patterns. They have to perform in line with centrally coordinated performance contracts imposed upon them through the various administrative levels. This does not mean that cooperative structures cannot play a positive role in bargaining in favour of local farmers' rights; however, their margin of manoeuvre within the broader commodity chains is rather limited. Interestingly, the discourse of the 'commons' is still instrumentalized in this phase of centrally coordinated market-oriented production. Authorities refer to the

importance of collective interests to legitimize the authorities' right to evaluate best options in favour of the greater good. At the same time, smallholder farmers secretly express increased frustration around the loss of their land rights, but also around the loss of their independent right to decide what they find opportune.

This Rwandan case is rather particular. On the one hand, while declaring marshlands as state property, the Rwandan state has mainly focused on its economic value. On the other hand, whenever the state has failed to exploit these marshes, local people have used the customary first-come rule to gain access. It is even more interesting to note that in the current liberal economic context, the nationalization of certain categories of land, including the marshes, is still possible. Over the past 10 years, Rwanda has managed to categorize all land and to grant private ownership rights to particular claimants. This has not been the case for the marshes which continue to be managed as state property. This nationalization in a context of privatization is not perceived as contradictory since the state presents marshlands as *commons*, destined to serve the common good of national development and food security. This particular situation also offers opportunities for certain authorities who take advantage of the marshes' particular status by holding on to their leases at the expense of peasants' land access.

Conclusion: The “Imaginary” Commons and Its Impact on Contemporary Land Governance

This article started by defining the commons as a specific institutional setup, created and institutionalized by its users in a process of bricolage and subject to power relations. The concept of institutional bricolage allows us to understand actors' choices in a more structuralist perspective. Indeed, the rules they choose and to which they adhere are not only linked to rational, individual choices with the aim of pursuing an immediate and personal interests. They are also part of larger value and meaning

systems (Cleaver, 2012). Through this structuralist perspective on institutional bricolage, our study opens up interesting perspectives on interactions between the rules, on the one hand, and the institutions and systems of which they are a part, on the other hand. This is likely to enrich the approaches to legal pluralism which have hitherto dominated the literature on the commons in Africa and which generally remain in a (neo)institutional perspective.

From the three cases discussed, it became clear that contemporary notions of common property and common governance systems are often rooted in the colonial system. However, the way in which these notions are instrumentalized today is often much more simplistic than the complex systems that existed in the past. When mobilized, the imaginary of the commons is often used in contrast to 'modern' land tenure, based on principles of privatization and individualization of tenure. The two dominant elements in the contemporary commons discourse are (1) the principle of inheritable user rights of the first settler and his descendants; and (2) the position of the customary authority or *Mwami* as guardian of the land. As demonstrated in our three cases, these deeply rooted principles have been instrumentalized by different actors, including the state, customary authorities and land users.

In Rwanda and Burundi, marshes have always played an important role for local communities since they served (and continue to serve) as a buffer zone to fight famine and provide food security. They were considered as commons that could be flexibly used to fulfil specific local needs, including cattle grazing, agriculture, fishing and hunting. However, increased population pressure led to the individualization of tenure, with user rights attached to the principle of the first settler. Throughout time, individual and inheritable users rights were established on the basis of having cleared the land and transformed it into arable farming land. Today, marshes in both countries are governed differently depending on the

institutional framework in place. In Burundi, the governance of the marshland is poorly defined in the land code, leading to confusion about its statutory legal status. This creates openings for powerful actors to bend the rules to their advantage. In Rwanda, the 2005 land code transformed all marshlands into state land and gave extensive power to local authorities to transfer user rights from individuals to collective groups. Today, most marshlands are managed by professional cooperatives. In the DRC, the 1973 Land Code, currently still in force, defines marshlands as state property. However, in practice, the marshlands continue to be governed by customary authorities. Debates on land tenure reform underway since 2012 are still struggling to define the ownership of rural land, including marshlands.

Despite these radically different institutional setups, references to the commons play an important role in the allocation of marshlands. Indeed, the different cases discussed in this article clearly show how the commons are discursively and practically instrumentalized to claim land rights, to sustain power relations and legitimacy and to renegotiate institutional arrangements. References to the commons are imaginary in the sense that they make reference to idealized past situations that do not per se correspond to real historical processes. Consequently, they do not correspond to the more static notions found in policy discourses. Rather, this imaginary and symbolic importance of the commons serves as an institutional software (De Herdt, 2011), internalized and instrumentalized by actors who construct discourses and practices to govern the land and to deal with everyday challenges of land governance.

Even though the references to the commons are often based on an imaginary past situation, this does not mean that there are no impacts in real life. In both Burundi and Rwanda, the allocation of the marshlands is increasingly exclusionary (Ansoms and Murison, 2012; Nyenyezi, 2016). In Rwanda, land governance in the marshes is mainly directed by a strong

state, who transfers access rights to cooperatives in which smallholder farmers have limited negotiation capacity. Becoming a member is no longer dependent upon the physical capacity to clear the land and the recognition of the customary authority but rather on access to financial means to pay membership fees. In Burundi, different elites, including economic elites, dignitaries of former regimes and political parties, manage to instrumentalize the plural institutional landscape and strategically instrumentalize the idea of the commons to govern land access. On Kalehe's highlands, both customary authorities, elites as well as ordinary farmers, refer to the idea of the commons to claim land rights over the same piece of land. Different actors instrumentalize similar instruments and discourses based on common resource governance. Because they are differently positioned in the plural institutional landscape, outcomes can be very uneven and existing inequalities can be further reinforced because of these processes. However, in some cases, references to marshlands as commons can also lead to opportunities for weaker actors to negotiate access to those lands.

Overall, the process of bricolage in constructing the commons—including the operationalization of the symbolic and the imaginary value of the commons—can serve as a powerful starting point to rethink institutions for land governance in the region. All three countries embarked upon a process of land policy reform. In all their reform projects, we observed a tension between efficiency arguments, based on notion of individualization and privatization, on the one hand, and a willingness to accommodate local practices based on communal land governance, on the other hand. Our cases clearly demonstrate that this is a false dichotomy. First, it implies that common resource governance cannot be efficient. Similarly, it implies that common governance cannot entail notions of privatization and individualization of tenure. Second, this dichotomy between efficiency and communal land tenure dismisses the instrumental capacity of resource users

to manoeuvre through different spaces and to creatively put together institutional arrangements in an eternal process of institutional reform. While land reforms erroneously see resource users either as efficient and rational actors capable to transform to modern tenure systems, or as 'backward' subjects of 'traditional' customary systems, it is important to recognize them as strategic bricoleurs who play a crucial role in continuously ongoing institutional reform.


Declaration of Conflicting Interests

The authors declared no potential conflicts of interest with respect to the research, authorship and/or publication of this article.

Funding

Part of this research has been carried out in the framework of the Transition to Sustainability ERANET COFUND project titled 'The challenges of localizing land-registration in conflict-affected Burundi and eastern DRC' funded by the European Union, the ARC-SERTIS project titled 'Resistance to international prescriptions and injunctions in Africa and the Middle East today' at UCLouvain, and by the 'Building Robust Farming Systems in the Great Lakes Region' project funded by the Bauchau prize grant.

ORCID iD

Klara Claessens  <https://orcid.org/0000-0002-9250-0867>

Notes

1. The colonial administration refrained from using the term property. Instead, they referred to: *'the lands occupied by the natives'*.
2. A tontine is a rotating savings and credit association.

References

- Amani, J.P.** 2009: Les droits fonciers et les peuples des forêts d'Afrique. Perspectives historiques, juridiques et anthropologiques. N°1, Evolution historique du droit foncier et son incidence sur la propriété foncière des *Batwa* au Burundi. *Forest Peoples Programme*, Royaume-Uni, April 2009.
- Ansoms, A. and Murison, J.** 2012: De 'Saoudi' au 'Darfour': L'histoire d'un marais au Rwanda. In: Reyntjens, F., Marysse, S. and Vandeginste, S., editors. *L'Afrique des Grands Lacs: Annuaire 2011-2012*. L'Harmattan.
- Ansoms, A., Cioffo, G., Huggins, C., et al.** 2014a: The reorganisation of rural space in Rwanda: Habitat concentration, land consolidation, and

- collective marshland cultivation. In: Ansoms, A. and Hilhorst, T., editors. *Losing your land: Dispossession in the Great Lakes*. James Currey.
- Ansoms, A., Wagemakers, I., Walker, M., et al.** 2014b: Land contestation at the micro scale: Struggles for space in the African marshes. *World Development* 54, 243–52.
- Ansoms, A., Cioffo, G., Dawson, N., et al.** 2018: The Rwandan agrarian and land sector modernisation: Confronting macro performance with lived experiences on the ground. *Review of African Political Economy* 45(157), 408–31.
- Claessens, K.** 2017: *Land, access and power. Case-studies from Kalehe, DRC*. PhD thesis. University of Antwerp.
- Claessens, K., Mushagalusha Mudinga, E. and Ansoms, A.** 2014: Competition over soil and subsoil: Land grabbing by local elites in Eastern DRC. In: Ansoms, A. and Hilhorst, T., editors. *Losing your land: Dispossession in the Great Lakes*. James Currey.
- Cleaver, F.** 2012: *Development through bricolage: Rethinking institutions for natural resource management*. Routledge.
- Dardot, P. and Laval, Ch.** 2014: *Commun, Essai sur la révolution au XXI^e siècle*. La Découverte.
- De Clerk, L.** 1971: Le régime foncier du Burundi. *Revue administrative et juridique du Burundi*, premier trimestre.
- De Herdt, T., editor.** 2011: *A la recherche de l'Etat en R-D Congo*. L'Harmattan.
- Deininger, K. and Feder, G.** 1998: Land institutions and land markets. *Policy, Research working paper*, no. WPS 2014, World Bank.
- Gahama, J.** 2001: *Le Burundi sous administration belge: La période du mandat 1919–1939*. Karthala.
- Government of Rwanda.** 2004: *National land policy*. Ministry of Lands, Environment, Forests, Water and Mines.
- Government of Rwanda.** 2006: *National policy on promotion of cooperatives*. Accessed September 10, 2014.
- Griffiths, J.** 1986: What is legal pluralism? *Journal of Legal Pluralism* 24, 1–56.
- Hardin, G.** 1968: The tragedy of the commons. *Science* 162(3859), 1243–8.
- Huggins, C.** 2013: *Consolidating land, consolidation control: State-facilitated 'agricultural investment' through the 'Green Revolution' in Rwanda*. LDPI Working Paper 16. The Land Deal Politics Initiative.
- Huggins, C.** 2014: "Control grabbing" and small-scale agricultural intensification: Emerging patterns of state-facilitated "agricultural investment" in Rwanda. *The Journal of Peasant Studies* 41(3), 365–84.
- Huggins, C.** 2017: *Agricultural reform in Rwanda: Authoritarianism, markets and zones of governance*. Zed Books.
- Jewsiewicki, B.** 1979: Le colonat agricole Européen au Congo-Belge, 1910–1960: Questions politiques et économiques. *The Journal of African History* 20(4), 559–71.
- Kisangani, E.F. and Bobb, F.S.** 2010. *Historical dictionary of the Democratic Republic of the Congo*. The Scarecrow Press.
- Kohlhagen, D.** 2010: Les bashingantaha écartés de la loi: La place de la justice traditionnelle Burundais après la loi communale de 2010. In: Marysse, S., Reyntjens, F. and Vandeginste S., editors. *L'Afrique des Grands Lacs: Annuaire 2009–2010*. L'Harmattan.
- Kohlhagen, D.** 2011: In quest of legitimacy: Changes in land law and legal reform in Burundi. In: Ansoms, A. and Marysse, S., editors. *Natural resources and local livelihoods in the Great Lakes region of Africa: A political economy perspective*. Palgrave Macmillan.
- Leegwater, M.** 2015: *Sharing scarcity: Land access and social relations in Southeast Rwanda*. African Studies Centre.
- Lemarchand, R.** 1970: *Rwanda and Burundi*. Pall Mall Press.
- Le Roy, et al., editors.** 1996: *La sécurisation foncière en Afrique*. Karthala.
- Mafikiri Tsongo, A.** 1994: *La problématique foncière au Kivu montagneux (Zaïre)*. Cahiers du CIDEP no. 21. L'Harmattan.
- Moore, S.F.** 1978: *Law as a process: An anthropological approach*. Routledge and Kegan Paul.
- Mugangu Matabaro, S.** 2008: La crise foncière à l'Est de la RDC. In: Marysse, S., Reyntjens, F. and Vandeginste, S., editors. *L'Afrique des Grands Lacs: Annuaire 2007–2008*. L'Harmattan.
- Musahara, H. and Huggin, C.** 2005: Land reform, land scarcity and postconflict reconstruction: A case study of Rwanda. In: Huggins, C. and Clover, J., editors. *From the ground up: Land rights, conflict and peace in sub-Saharan Africa*. Institute for Security Studies.
- Mushagalusha Mudinga, E.** 2017: *La création des espaces ingouvernables dans les luttes foncières: Analyse de la résistance paysanne à l'accaparement des terres au Sud Kivu*. PhD en Sciences Politiques et Sociales, Université catholique de Louvain, Collection de thèses de l'Université catholique de Louvain, 2016.
- Ntampaka, Ch.** 2009: *Etude sur la problématique foncière au Burundi*. CCFD–Terre Solidaire–ACORD Burundi.
- Nyenyenzi, B.A.** 2016: *Invention de la terre et production des anormaux dans le dispositif foncier en Afrique. Pouvoir et résistance à l'accaparement des terres en Afrique des Grands Lacs*. PhD en Sciences Politiques et Sociales, Université catholique de Louvain, Collection de thèses de l'Université catholique de Louvain, 2016.
- Nyenyenzi, B.A. and Ansoms, A.** 2015a: Accaparement des terres dans la ville de Bukavu (RDC): Déconstruire le dogme de la sécurisation foncière par

- l'enregistrement. In: Marysse, S. and Omasombo, J., editors. *Conjonctures congolaises 2014*. L'Harmattan.
- Nyenyenzi, B.A. and Ansoms, A.** 2015b: Land grabbing & power relations in Burundi. Practical norms and real governance. In: Ansoms, A. and Hilhorst, Th., editors. *Losing your land. Dispossession in the Great Lakes*. James Currey.
- Nyenyenzi Bisoka, A. and Giraud, C.** 2020: An anatomy of liberal peace from the case of land tenure in Burundi: Towards an intermedial perspective. *Journal of Peacebuilding & Development*. Online first. <https://doi.org/10.1177%2F1542316620956934>.
- Nyenyenzi, B.A. and Panait, O.M.** 2014: Dispositif, du jeu au sens. Programme de sécurisation foncière ou instrument du pouvoir-savoir au Burundi? In: Marysse, S., Reyntjens, F. and Vandeginste, S., editors. *L'Afrique des Grands Lacs: Annuaire 2013–2014*. L'Harmattan.
- Ostrom, E.** 1990: *Governing the commons. The evolution of institutions for collective action*. Cambridge University Press.
- Peemans, J.P.** 2014: Land grabbing and development thinking: The Congolese experience. In: Ansoms, A. and Hilhorst, T., editors. *Losing your land: Dispossession in the Great Lakes*. James Currey.
- Pèlerin, É., Mansion, A. and Lavigne Delville, P.** 2011: *Afrique des Grands Lacs : Droit à la terre, droit à la paix. Des clés pour comprendre et agir sur la sécurisation foncière rurale*, Coll. Études et Travaux, série en ligne n° 30, co-édition CCFD–Terre Solidaire/Gret, www.gret.org, pp. 1–127.
- République Démocratique du Congo, Ministère des Affaires Foncières.** 2013: *Réforme foncière*. Document de programmation, Kinshasa.
- Reyntjens, F.** 2009: *The great African war*. New York.
- Vivero-Pol, J.L., Ferrando, T., De Schutter, O. and Mattei, U.** 2018: Introduction. The food comings are coming ...'. In: Vivero-Pol, J.L., Ferrando, T., De Schutter, O. and Mattei, U., editors. *Routledge handbook of food as a commons*. Routledge.
- Vlassenroot, K.** 2004: Reading the Congolese crisis. In: Vlassenroot, K. and Raeymaekers, T., editors. *Conflict and social transformation in eastern DR Congo*. Academia Press Scientific Publishers.
- Vlassenroot, K. and Huggins, C.** 2005: Land, migration and conflict in eastern Congo. In: Huggins, C. and Clover, J., editors. *From the ground up: Land rights, conflict and peace in sub-Saharan Africa*. African Center for Technology Studies and Institute for Security Studies.
- von Benda-Beckmann, F. and von Benda-Beckmann, K.** 2006: The dynamics of change and continuity in plural legal orders. *The Journal of Legal Pluralism and Unofficial Law* 38(53/54), 1–44.