

1 Introduction

One of the major factors that helped shape the development of commercialised peasant agriculture in colonial and post-colonial economies was the way in which access to and exploitation of the land were structured and governed. The interactions among land tenure systems, land supply and the supply and use of labour were particularly important, for instance in the processes by which countries such as Ghana, southwestern Nigeria and Cote d'Ivoire became major exporters of cocoa and coffee on the world market. These economic transformations were themselves the result of the ways in which peasant farmers in those countries responded to the different legal and political settings within which they had to work – and which they themselves influenced through locally invented arrangements and new forms of social relations of production.

The history of these interactions between changing structures and peasant responses illustrates very clearly how 'law as practice', as experienced by peasant farmers in their everyday lives, significantly affects economic choices and behaviour; and how these micro-level responses ultimately produce general economic transformations of the kind experienced in Ghana and Cote d'Ivoire. In addition, it can be argued that the particular trajectories of agrarian transformation wrought by cocoa and coffee growing in these countries also had important effects on political and social outcomes. The degree of certainty and embeddedness of the regulatory orders within which commercial cocoa production grew, combined with the effect of regime contexts in each case, affected the extent to which ethnicity was stratified and politicised, and the degree of inter-communal political violence that resulted.

2 The 'Legalisation' of Land Relations: Comparing Economic and Political Outcomes

In sub-Saharan Africa generally, land tenure and agrarian labour relations are characteristically seen as determined by political and social relationships, particularly by membership in social groups ('families', lineages, political communities) (Berry 1993). It will be argued here, however, that there are important differences amongst countries – in

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Africa as elsewhere – in their degree of ‘legalisation’ of land relations, a characteristic which is linked to the degree of uncertainty associated with competition amongst regulatory orders (‘legal pluralism’). The concept of ‘legalisation’ refers to a continuum: at one extreme, the regulatory order governing land tenure and agrarian production may be encapsulated in a single, state-endorsed legal framework and body of justiciable laws. It can then range through increasingly diverse and less formally established regulatory orders until at the other extreme there is a situation in which land relations are matters of informal, social and political bargaining or negotiation, in which a wide variety of resources can be drawn upon to establish advantage and authority.¹ The link between degree of legalisation and degree of pluralism/uncertainty is best illustrated by the extreme case of ‘social bargaining’ as the basis of land relations (Chauveau’s ‘*jeu foncier*’)² If the lack of a single, formal legal order is combined with competition between regulatory orders, none of which is authoritative and where agreements are difficult to enforce or predict, then there is a situation of uncertainty. Although some analysts celebrate this kind of uncertainty as a situation of ‘choice’ which enables peasant farmers to engage in ‘forum shopping’ to regulate their land relationships, in the cases considered here it will be argued that this scenario of extreme competition and uncertainty gives the state a free hand to politicise and clientelise access to land, and to behave in quite arbitrary ways.³ Differences in the degree of legalisation and the uncertainty of land relations are likely to affect both economic and political outcomes.

Ghana and Cote d’Ivoire form a particularly useful pair for testing this hypothesis, in that whilst they have much in common in terms of their natural resources, cultures and relations to the world market, they exhibit important differences in their structures of agrarian production and in the degree of legalisation of those structures.⁴ Both experienced commercialisation and marketisation of land as a consequence of the development of cocoa (and in Cote d’Ivoire, coffee) growing for the world market, and both experienced massive labour and land-acquisition migrations coming from both the surrounding region and internally. Nevertheless, they can be shown to have experienced different

economic and political outcomes in their recent histories, which, it will be argued, can be explained by a combination of factors which include these legal and ‘relations of production’ differences (see Figure 1).

2.1 Differences in economic outcomes

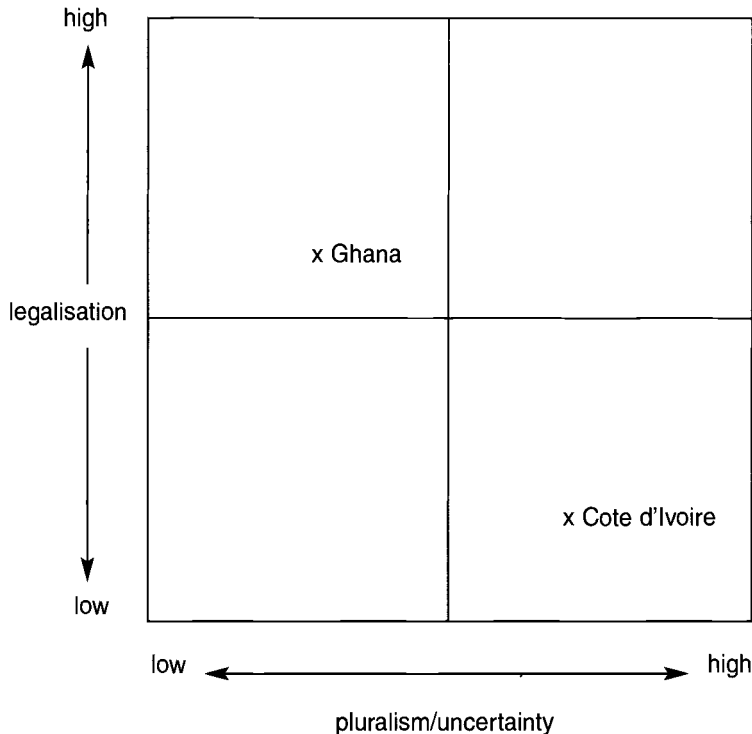
The two countries experienced a dramatic difference in *economic outcomes*, as measured by the relative trajectories of their cocoa industries during the 1970s and 1980s. The cocoa industry had developed much earlier in Ghana, reaching its peak in the mid-1960s/early 1970s. But during the mid and late 1970s, when world commodity prices reached unprecedentedly high levels, Ghanaian cocoa production began to decline from its previous historic peak, and continued to decline, whilst Ivorian production took off on a rapid expansion which continued throughout the 1980s (when cocoa prices slumped), leading eventually to Cote d’Ivoire replacing Ghana as the world’s largest cocoa producer. The Ivorian expansion was especially remarkable in its speed and extent, in that cocoa production grew thirteen-fold between 1960 and 1989, from 67,000 tonnes to 880,000 tonnes, by contrast with the growth of Ghanaian production in its equivalent ‘early boom’ period, which took twenty-five years to grow from 100,000 tonnes in 1920 to its peak of 500,000 tonnes in 1965. Both countries were exposed to the same market conditions within the same time frame; and yet cocoa growers in each country responded very differently. The key comparative question which arises, therefore, is: why did cocoa growers in two apparently similar countries behave so differently, to the extent that one experienced a cocoa boom, the other a slump during the same time period?

2.2 Differences in social and political outcomes

In Cote d’Ivoire, there are three quite specific political and social outcomes associated with the growth of the cocoa economy:

- First, the cocoa boom was associated with a policy of unrestricted migration, both internal and cross-border (from the Sahelian north), which then fuelled a ‘cocoa frontier’ of ever-increasing migratory chains. Although the

Figure 1



earlier boom in Ghana had also attracted large-scale regional migrations, the scale and extent of the migratory phenomenon in Cote d'Ivoire was of a totally different order from that of Ghana. By 1980, non-Ivorian Africans formed 41 per cent of the adult labour force (Crook 1990a). More significantly, these migrants were allowed to vote in Ivorian elections and were perceived by many Ivorians as the grateful 'vote bank' which had sustained President Houphouet-Boigny and the PDCI regime in power since independence in 1960.

- Second, in order to encourage migration and expansion of cocoa growing, government policy on access to land formally favoured private ownership and *laissez-faire*, as encapsulated in President Houphouet-Boigny's famous slogan: 'the land belongs to those who cultivate it'. This led in practice to the politicisation and clientelisation of land relations at the local level. Government officials, under the direction of an

authoritarian single-party regime, systematically used the competition over land and the uncertainty of land tenure regulation to favour migrants and any others who could maximise investment in cash-crop production such as officials, politicians and wealthy 'absentee' farmers. In effect, the state manipulated – or ignored – whatever regulatory orders were in operation, using its power as both supreme patron and ultimate enforcer.

- Third, one of the longer term consequences of this land policy was that the indigenous populations of the cocoa growing areas felt increasingly unprotected and aggrieved. Although they developed new regulatory orders (within the idiom of 'customary law') in an attempt to cope with the influx of migrants, they were in many areas swamped, or dispossessed through an inability both to enforce land access agreements and to compete economically. The conditions of access to land in the forest zones of

southwestern Cote d'Ivoire increasingly, therefore, politicised ethnic relations which, combined with a rising tide of hostility to foreigners (non-Ivorian Africans), found their expression in political opposition movements. In the 1990s, with the liberalisation of party competition, the festering political resentments of both the southeastern and southwestern regions re-emerged in a new united but regionally-based opposition party, the *Front populaire ivoirien* (FPI). Ultimately, the stability and security of one of the most stable single party regimes in Africa was threatened. After surviving the death of its founding leader Houphouët-Boigny in 1993, the PDCI under Konan Bédié reversed its long-standing position on foreigners' rights and attempted to coopt populist anti-foreigner sentiment in the 1995 elections (Crook 1997). But this did not save it from destruction after forty years in office by a military coup at the end of the century. Anti-foreign sentiment continues to be one of the key divisive issues in Ivorian politics (cf. Médard 1991) with the 2000 elections repeating the violence of 1995.

In Ghana, a greater degree of legalisation of land relations has meant that social and political outcomes have been much less affected by the political economy of cocoa growing and the associated changes in land relations. The impact of this economy over the past fifty years can be contrasted with Cote d'Ivoire as follows:

- Migration into the cocoa boom areas (which moved over time from southeast to west) has been more under the control of host communities, who were able to set the terms on which migrants worked for farmers and on their opportunities to acquire land. Migrations of up to 150,000 to 200,000 people per year in the 1950s and 1960s were absorbed relatively peacefully within the context of control by host communities. The only point at which these relationships were threatened and became a political issue was after the Busia Government's ill-judged Aliens Compliance Order of 1969, which, although aimed at foreign small businessmen, had a severely disruptive effect on labour supply to the cocoa industry.

- The state in Ghana has not, on the whole, been able to clientelise access to land and regulation of land at the local level, where the colonially supported customary law of the native courts has long been incorporated into the common law and statutes of the Ghanaian state. Local communities and chiefs still exercise considerable control over access to land.⁵
- Conflict over access to and use of land has not led to ethnically-based, electoral political mobilisation at the level of political parties.⁶ This is not to deny that ethno-regional identities and accusations of 'tribalism' have had their part in Ghanaian national politics. But since the emergence of Ghana's two 'political traditions' in the 1950s (populist-Nkrumahist and conservative-Danquahist), ethnicity has not been the dominant basis for division, as Rawlings' victories in the recent 1992 and 1996 elections once again demonstrated (Nugent 1999). Whilst the opposition to Rawlings has been accused of being 'Ashanti dominated', the issues in these elections and in the 2000 elections were certainly not those of land-based resentment against migrants and foreigners.

3 Explaining Differences in Outcomes: Regulation of Access to Land and Relations of Production

Why did the cocoa economies of Ghana and Cote d'Ivoire take such different economic trajectories and develop such different social and political characteristics over the past thirty years? Explaining these different outcomes is, of course, the subject of a complex and lively debate. Economists, for instance, argue that the Ivorian cocoa boom had nothing to do with institutional factors, but was simply a repeat of what had happened in Ghana and Nigeria earlier in the century, explicable in terms of the theory of 'vent for surplus' – that is, the opening up of low cost virgin forest land combined with a labour force of peasant farmers who could easily increase the productivity of 'underutilised' labour time and capital at low opportunity cost (see Ruf 1995).

Other explanations emphasise a combination of economic and institutional factors, such as real producer prices and the marketing systems of the different countries, arguing that the inefficiency, corruption and artificial repression of producer prices imposed on farmers by state-controlled marketing boards were the major causes of the Ghanaian (and Nigerian) declines in the late 1970s and 1980s.

Whilst the effectiveness of the Ivorian marketing system, as designed and supported by the Ivorian state, is undoubtedly one of the key explanations for the success of the Ivorian cocoa industry relative to that of Ghana, it is not sufficient to explain the speed and sheer scale of the Ivorian boom, nor the political and social outcomes described above, which in many important respects were *not* a repeat of the earlier experiences of Ghana. It is here that differences in the conditions of access to and use of land and labour, together with differences in state policies, would seem to be most crucial. A brief investigation of these conditions will reveal how the social processes and adjudication mechanisms that structure land relations contributed to the political economy of farmers' decisions in these forest zones of West Africa.

3.1 Low levels of legalisation and competition of regulatory orders in Cote d'Ivoire

The development of cocoa growing in Cote d'Ivoire unleashed two extremely powerful processes in rural society: commercialisation of agricultural production with its accompanying marketisation of land values, and mass migrations of populations seeking to participate in the benefits of cocoa growing, either by labouring or by acquiring land themselves (the former frequently leading to the latter). The way in which these processes were handled by local communities 'on the ground' was very much determined by the legacy of the French colonial state, which had not been interested in legalising indigenous 'customs' (regulatory orders) and, in the case of land, had been concerned mainly to override local rights with its claim to 'own' all unoccupied land, later extended to include the right to allocate any land if there was an 'economic justification'.⁸

After independence this overarching claim was used mainly (outside forest reserves and integrated projects) to set a context of *laissez-faire* whose main goal was maximisation of the *mise en valeur* of the land through encouragement of private ownership, either by registration or by 'occupation and use'.⁹ The policy was, in effect, designed to support a 'gold rush' mentality as regards the staking out of land claims, an aim which was clearly revealed in the Ministry of Interior's 1968 official pronouncement that 'customary rights' were henceforth abolished insofar as they stood in the way of state policy (Heath 1993:32). Yet in practice, state action at the local level produced a situation of systematic ambiguity and uncertainty. On the one hand, state officials continued to acknowledge and work with the reality of local systems of 'customary' land tenure, and the existence of a multiplicity of fora for the settlement of land rights (Chauveau 1997; Léonard 1997). On the other hand, the state reserved the freedom to choose which rules would be enforced and by what mechanisms, using administrative action rather than judicial procedures. Paradoxically, therefore, it was the possibility of random intervention by the state and the invocation of official law that frequently gave the system of land relations its unpredictable and 'political' quality.

The local administration played their role in the encouragement of cocoa production in three main areas of activity:

- (a) Ministry of Agriculture officers 'facilitated' land transfers by acting as surveyors and witnessing written memoranda, which had in fact no legal force and undermined the official registration laws.
- (b) The prefectural administration provided a quasi-legal forum for resolving disputes between indigenes and migrants, which, according to the perceptions of both the indigenes and academic researchers, tended routinely to favour the migrants, or to protect indigenous authority figures who had acted unilaterally without the permission of their lineage or community (Ruf 1985a, 1985b; Lesourd 1988; Chauveau and Dozon 1987). According to Chauveau, the administration claimed to be affirming 'customary law' but nearly always 'found' that the root of the problem was disagreement and

uncertainty amongst the indigenous community about who could claim a right against a migrant, or the appropriate level of the demand (Chauveau 1997).

- (c) The prefects and the Forestry Department routinely turned a blind eye to the occupation of forest reserves by migrant groups and by politically powerful individuals or officials themselves (Heath 1993; Ibo 1997; Chauveau 1997:345).

As supreme 'patron', therefore, the state played a particularly important role in politicising access to land during this period. In the absence of political competition anything could be fixed if one had the right connections with high-up political figures in Abidjan. And the civil service, although acknowledged as the most effective administrative technocracy in Africa, was very definitely under political control and integrated into the ruling system (Crook 1989). Local administrators were therefore subject to quite specific policy directions on land, and were also at the same time able to benefit from their local power and knowledge. As Ruf puts it, the indigenous populations of the central and southwestern regions found themselves in a situation where they had no means whatsoever of enforcing any landholding customs in their favour (Ruf 1985a).¹⁰

The way in which host communities responded to the situation was also determined by their own social structures and their colonial history. The Bété of the southwest, in particular, did not dispose of the social 'self-defence' mechanisms and dense community structures of an Akan kingdom, nor did they have systems for control and allocation of land above the lineage level. They found themselves confronting migrants with both capital and social control of labour supply, and no protection from the state. In such a bargaining relationship, the Bété were bound to come off worst; in particular, they were unable to convert their locally sanctioned claims to rights over land into fully-fledged 'landlord-tenant' relations which could generate a realistic economic rent from the increase in land values and the product of the land. Instead, land was sold at nominal prices or leased for various forms of one-off payment, combined with relations of mutual political and social obligation (Léonard 1997). The violent resentment that grew during the 1970s expansion in turn set the stage for the re-

emergence of a regionally-based opposition party (Chauveau and Dozon 1987)

With the end of the cocoa boom in the 1990s, objective economic factors, such as the decline in cocoa prices, the exhaustion of old plantations and emerging land shortages, have created new sets of bargaining relations over land use. The new conflicts reflect changes in the balance of power between indigenes and migrants and, within the indigenous communities, between male elders of families on the one hand and youth and women on the other. Because of the continuing 'limited legalisation' of the situation, these changes are again reflected in newly negotiated arrangements for access to and appropriation of the produce of the land.¹¹

During the Ivorian cocoa boom and its aftermath, therefore, the marketisation of land and the settlement of hundreds of thousands of migrants were handled by local communities, lineages or even powerful individuals on the basis of negotiated arrangements which invoked the normative idioms of 'indigenous land rights'. This was partly because indigenous communities were indeed struggling to retain some control over land resources or to participate in the benefits of the new values being created; and it was partly also because in an entirely new situation people try to understand and order what is happening in terms of what is familiar. But what had happened, in fact, was the creation of a whole new repertoire of land and labour relationships: outright sale, sale with continuing social obligations and/or claimed rights of reversion, various forms of sharecropping, 'pledging' of land for loans, attempts to create informal tenancies by extracting annual payments, and a variety of familial labour arrangements and wage labour contracts. These were 'traditions' invented for the situations in which migrants and local populations found themselves. In the agrarian societies of southern Cote d'Ivoire there is now an extreme multiplication of sets of norms and/or purported rules governing land and labour relations, and a fragmentation of the authorities or 'fora' where these rules can be confirmed and enforced. It is highly significant, however, that amongst the minimum of *five settings* for the resolution of land claims Chauveau identified in southwestern Cote d'Ivoire, he does not mention the official law courts (the local

Tribunaux), although these do represent another, albeit very infrequently used, forum, particularly for disputes between villages and the issue of concessions within forest reserves (Ibo 1997).

Overall, this extreme pluralism shows the capacity of Ivorian peasants to respond to forces which the state was determined to 'let run', and indeed to manipulate. Undoubtedly, their flexibility was a critical factor in facilitating the most rapid expansion of cocoa production of any country in the world.

3.2 Ghana: high levels of legalisation and control by local communities

In comparing the Ivorian cocoa expansion with earlier booms in Ghana, the most obvious difference lies in the fact that neither in southeastern Ghana in the 1920s, nor Ashanti in the 1950s, was there such easy access for migrants to land on such a large scale. The reasons are partly to do with the economies and societies of the different localities, and partly to do with the role of the state and the law – the degree of legalisation.¹²

The most important legacy of the British Indirect Rule policy in Ghana was the incorporation of local or 'customary' law into a unified common law system through the institution of the Native Courts. The courts were staffed by office holders of the native authorities and applied local laws and procedures in the areas of land, family, debt, religious customs and petty crime, as well as colonial regulations and local taxation. Inevitably, the interpretations and restatements of 'custom' by these courts reflected the conjuncture of political forces that had emerged in colonial African society at the time. Nevertheless, the British came to accept, and take seriously, the legal ideology of 'communal landownership', albeit that it served the political claims of the chieftaincy and their lawyer allies (Crook 1986). And this body of law cannot easily be dismissed as merely a 'colonial invention' (Chanock 1985). It meant that access to land continued to be conceived of in terms of variable bundles of usufructory rights, which could be purchased or accessed principally within the context of social group relationships.

In Ghana, these indigenous regulatory and normative orders (and their procedures and language), as formulated by litigants in local courts, became part of the body of state law. Because the British regarded the Native Courts as part of a single court system, customary laws could be pleaded and 'judicially recognised' in the higher courts, both on appeal and at first instance. Over time, it was established that a customary rule would be accepted as a legal rule if it could be shown that it had been applied by a Native Court; it then became part of the common law (Allott 1994). Although the Native Courts were abolished and replaced by local courts after independence (as of 1993, Community Tribunals), all customary rules are now treated as 'questions of law not fact' and are constitutionally part of the 'laws of Ghana'.

In arguing that there were important differences between Cote d'Ivoire and Ghana in respect of access to and social control over land, one is not claiming that the latter country preserved some kind of pristine 'traditional' land tenure system. On the contrary, land began to be sold in Ghana and various kinds of tenancy relations evolved – but it was within a context of contested land claims in which the colonial state supported the rights of local communities, individuals or authorities. This 'legalisation' of the 'customary' land-rights claims made by various local groups and individuals – often in conflict – meant that the influx of foreign migrants was generally absorbed within the context of land use and production relationships set by the indigenous communities. And the worst aspects of a land 'free-for-all' as experienced in Cote d'Ivoire were avoided.

The economic impact of these structures can be seen in the reluctance – and perhaps lack of ability – of agrarian society in southern Ghana to further expand cocoa cultivation in the 1970s. Cocoa apart, Ghanaian agriculture may well be less flexible in how quickly it can shift factors of production. Farmers who are more embedded in local social relations may simply take a longer term view of what it is sensible to invest in.

The degree of control that host societies in Ghana exercised over strangers seeking access to land was also a factor in labour supply, particularly in the development of sharecropping. The rate and scale

of cocoa farm expansion in Ghana – as well as its decline in the 1970s and 1980s – were also, therefore, crucially determined by the availability of labour. West African peasant farmers entering into tree-crop cultivation need both working capital and the ability to obtain and organise considerable amounts of labour. Indeed, given the prevailing techniques of production, a case might be made for asserting a direct relationship between the rapidity and extent of expansion in hectareage and the amounts of labour applied. In this respect too the Ghanaian experience diverged from that of Cote d'Ivoire in the 1970s.

Large-scale foreign migration grew in the later stages of the Ghanaian cocoa cycle as a result of Ghanaian farmers' adoption of various forms of wage labour and sharecropping. The ability to attract so many long distance migrants is, of course, largely a function of relative wage rates; but it is also to do with the attractiveness of the working relationship offered by the host farmers. In the 1970s, just as world cocoa prices began to pick up, the attractiveness of these terms deteriorated radically relative to those on offer in Cote d'Ivoire. First was the effect of the Aliens Compliance Order, which created insecurity, not just for the foreign traders and businessmen at whom it was aimed, but also for migrant cocoa labourers and sharecroppers. Second, by the end of the 1970s and early 1980s, the collapse of the Ghanaian currency meant that wages in CFA francs became much more attractive (Ruf 1985a). Last, but not least, was the impact of Cote d'Ivoire's 'open door' policy and greater opportunities for migrants to acquire their own farms. Northern, mainly Mossi, migrants, who had formerly been content to be labourers or sharecroppers, took advantage of the 'free for all' in the southwest and began adopting the 'Baoulé' practice of establishing their own farms through nominal purchase (Ruf 1985a; Lesourd 1988). The Ivorian cocoa boom of the 1970s and 1980s and the Ghanaian decline can be partly explained, therefore, by special conditions, which affected not just the supply of land but also the supply of labour.

The embodiment of community and familial forms of control over access to land rights in state law has not resolved all problems of uncertainty and insecurity of land tenure in Ghana. On the contrary, litigation over land disputes remains endemic and

there are still plural sources of authority for allocation and dispute resolution at the local level. As Berry argues, multiple claims over land, and the continuing importance of group and political memberships as avenues of access, still 'fuel investment in social relations' (Berry 1993:133). But much of the uncertainty, it could be argued, is of a practical kind (the absence of agreed boundaries), which bodies such as the new Land Commission are attempting to tackle. Even more importantly, the uncertainty has not (since 1969) been politicised and manipulated by a state facing massive political problems over the size of its foreign population – a whirlwind reaped by the Ivorian regime in the 1990s.

4 Conclusions

The cases of Ghana and Cote d'Ivoire show how the legalisation of land relations and the degree of competition between regulatory orders can have important effects on the responses of peasant farmers to economic and social change. In Cote d'Ivoire, communities in cocoa-growing areas had to use local 'social bargaining' structures and relationships to deal with both the opportunities offered by the new cash crops and the pressures imposed by the government's policy of a 'free-for-all' on land acquisition and labour migration. The pluralism and informality of local regulatory orders allowed indigenous communities to construct new labour and land-use relationships in a flexible and pragmatic way; and these responses facilitated the most rapid and extensive 'cocoa boom' in history. But flexibility and pluralism also mean uncertainty, and this had its price.

Peasants in the southwest (few of whom had much large-scale capital or coercive resources) were basically left to make their own arrangements – knowing that enforcement of their arrangements, should they be contested, was an extremely uncertain, haphazard and politically determined prospect. Ultimately, this uncertainty led host communities to feel that they had not benefited equally from the cocoa wealth, and that competition had dispossessed them of their land rights. The instability and uncertainty of relations between indigenes and migrants in turn led to the violent, ethnically-based opposition which emerged in the 1995 elections – forcing the PDCI to abandon

its long-standing compact with the foreign migrant population and to harness a populist anti-foreigner backlash to its cause (Crook 1997).

Extreme uncertainty and competition also facilitated the arbitrary use of central state power. Chauveau (1997) perhaps underestimates the extent to which the power of the state stood above rather than formed part of that realm of uncertainty and conflict, indeed used it to pursue its policies for expansion and development. As he himself notes, the state could choose at any time to invoke its overarching rights and did not hesitate to enforce its wishes with threats of prison if necessary when it was challenged.¹³ Legal ambiguity and fluidity may in fact serve the needs of a dictatorial and patrimonial state, rather than citizen choice (cf. Chanock 1991).¹⁴

In Ghana, on the other hand, greater legalisation and the greater control exercised by local communities over land use exacted an economic price. In the 1970s and 1980s, Ghanaian production declined as labour supplies dwindled and the Ivorian cocoa boom was fed by migrants from all over the West African region in search of land to grow the crop. Ghanaian farmers therefore made their own decisions about whether to continue investing in cocoa, whereas the Ivorian expansion was in a very real sense the creation of a kind of colonisation by foreign migrants.

The Ghanaian state has paradoxically, therefore, been less able to control land-use policy than its *laissez-faire* neighbour, and has had less success at clientelising access to land. Kasanga argues (in this issue) that the current attempt to use the post-1994 Land Commission to allocate valuable 'vested' public lands is leading precisely to an Ivorian-style centralised and arbitrary patronage system. In Ghana, however, the Land Commission's activities are already provoking broad-based resistance from Ghana's highly mobilised and politically conscious society. This resistance comes not from particular ethnic groups but from all the locally based 'traditional' forces and the conservative opposition parties, which have been fighting the same battle since the 1890s, arguing that preserving the control of the chieftaincy over land also acts to defend community rights. And from the populist and radical left will come arguments against the

privilege and corruption of élite 'insiders'. Ghana is different because the legalisation of land law in fact has a public constituency

Notes

1. Stinchcombe (reviewing Tilly's book, *Roads from the Past to the Future*) refers to legalisation as an essential element in the process by which social relations and social structures become institutionalised, that is, a process which creates predictability or certainty in how people imagine 'social futures' (Stinchcombe 1997). As it is used here, the concept incorporates this notion, but does not depend on predictability as such; it refers more to the presence/absence of formal sets of rules, or elaborated and known 'regulatory orders' governing behaviour – as opposed to situations of 'social bargaining', which are determined primarily by dispositions of power and resources.
2. Chauveau (1997).
3. See Benda-Beckmann (1981).
4. Nigeria is also an interesting contrast, but space forbids treatment of this case here.
5. Urban public lands and the 1970s large-scale, state-led northern rice farming projects are the obvious exceptions.
6. The main exception is the notorious Bimbilla-Konkomba war in the north during the 1990s – although this did not enter the structure of party competition and, it could be argued, was a product of uncertainty in those remote areas where the presence of the state was weak.
7. See Crook (1991) for a more detailed analysis of these arguments.
8. Decree of 15 November 1935; see Heath (1993).
9. In fact only 1 per cent of rural land in Cote d'Ivoire was registered as of 1991 (Heath 1993).
10. The rural population of the southwest increased fourfold in the thirteen years spanning 1975–88 (Balac 1997).
11. Seasonal wage labour contracts, for instance, have virtually disappeared in favour of sharecropping, and farms for food crops are being offered at rates 'by the hectare', on seasonal or time period contracts involving lump sum payments referred to either as 'loans' or 'guarantees' (Léonard 1997).
12. Cf. the Yoruba areas of southwestern Nigeria, where a similar colonial policy had operated (Berry 1975).
13. E.g. in the case of its implementation of integrated rural development projects, or use of forest reserves.
14. Many analysts argue that certainty in land law is a much overrated quality; insofar as they equate certainty with formalistic devices such as land titles

and registration, they may well be right (Bruce *et al.*, 1994; Atwood 1990). But the kind of uncertainty referred to here is that which derives from the inability to establish authoritative settlement of competing

land-use arrangements, especially in situations where there is a competitive market in land. Other researchers have found that farmers do want greater enforceability/non-reversibility of land-dispute decisions (Firmin-Sellers 1999; McAuslan 1998).

References

- Allott, A. N. (1994) 'Judicial ascertainment of customary law in British Africa', in A. D. Renteln and A. Dundes (eds) (1994) *Folk Law: Essays in the Theory and Practice of Lex Non Scripta*, New York: Garland Publishing, pp.295–318.
- Atwood, D. A. (1990) 'Land registration in Africa: the impact on agricultural production', *World Development*, 18 (5): 659–71.
- Balac, Ronan (1997) 'L'acheminement du système d'économie de plantation ivoirien vers un blocage structurel: analyse d'une crise', in Bernard Contamin and Harris Memel-Fotê (eds) *Le modèle ivoirien en questions – crises, ajustements, recompositions*, Paris: Karthala/Orstom, pp. 311–25.
- Benda-Beckmann, Keebet von (1991) 'Forum shopping and shopping forums: dispute settlement in a Minangkabau village, West Sumatra', *Journal of Legal Pluralism*, 19: 117–59.
- Berry, S. (1975) *Cocoa, Custom and Socio-Economic Change in Rural Western Nigeria*, Oxford: Clarendon Press.
- Berry, S. (1993) *No Condition is Permanent: The Social Dynamics of Agrarian Change in Sub-Saharan Africa*, Madison: University of Wisconsin Press.
- Bruce, J. W. *et al.* (1994) *Searching for Land Tenure Security in Africa*, Dubuque: Kendall.
- Chanock, M. (1985) *Law, Custom and Social Order: The Colonial Experience in Malawi and Zambia*, Cambridge: Cambridge University Press.
- Chanock, M. (1991) 'Paradigms, policies and property: a review of the customary law of land tenure', in K. Mann and R. Roberts (eds) *Law in Colonial Africa*, London: James Currey, pp. 61–84.
- Chauveau, Jean-Pierre (1997) 'Jeu foncier, institutions d'accès à la ressource et usage de la ressource: une étude de cas dans le centre-ouest ivoirien', in Contamin et Memel-Fotê (see Balac 1997).
- Chauveau, J. P. and J. P. Dozon (1987) 'Au coeur des ethnies ivoiriennes ... ' in E. Terray (ed.) *L'Etat Contemporain en Afrique*, Paris.
- Crook, R.C. (1986) 'Decolonisation, the colonial state and chieftaincy in the Gold Coast', *African Affairs*, 85: 75–105.
- Crook, R. C. (1990a) 'State, society and political institutions in Cote d'Ivoire and Ghana', *IDS Bulletin*, 21 (4).
- Crook, R. C. (1990b) 'Politics, the cocoa crisis and administration in Cote d'Ivoire', *Journal of Modern African Studies*, 28 (4).
- Crook, R. C. (1991) 'Economic management, institutional capacity and agricultural development in Cote d'Ivoire', paper presented at the conference on governance and economic development in Africa, Queen Elizabeth House, Oxford, May.
- Crook, R. C. (1997) 'Winning coalitions and ethno-regional politics: the failure of the opposition in the 1990 and 1995 elections in Cote d'Ivoire', *African Affairs* 96 (382): 215–42.
- Firmin-Sellers, K. and P. Sellers (1999) 'Expected failures and unexpected successes of land titling in Africa', *World Development*, 27 (7): 1115–28.
- Heath, J. R. (1993) 'Land rights in Cote d'Ivoire: survey and prospects for project intervention', *World Bank Technical Paper*, 238.
- Hill, P. (1963) *Migrant Cocoa Farmers of Southern Ghana*, Cambridge.
- Ibo, Jonas (1997) 'Litiges de forêt dans la région de Sassandra. quelles implications?', in Contamin and Memel-Fotê (see Balac 1997).
- Léonard, Éric (1997) 'Crise écologique, crise économique, crise d'un modèle d'exploitation agricole: ajustements et recomposition sociale sur les anciens fronts pionniers ivoiriens', in Contamin and Memel-Fotê (see Balac 1997).
- Lesourd, M. (1988) 'La forêt, la machette and le billet de banque', *Cahiers d'Orstom, Sciences Humaines*, 24 (1).
- Mahieu, F. R. (1984) *Stabilisation des prix de produits agricoles d'exploitation ... l'expérience de la Caisse de Stabilisation en Cote d'Ivoire*, Abidjan: CIRES.
- McAuslan, P. (1998) 'Making law work: restructuring land relations in Africa', *Development and Change*, 29 (3): 525–52.
- Médard, Jean-Francois (1991) 'The historical trajectories of the Ivorian and Kenyan states', in J. Manor (ed.) *Rethinking World Politics*, London: Longman, p. 196.

- Nugent, P. (1999) 'Living in the past: urban, rural and ethnic themes in the 1992 and 1996 Ghanaian elections', *Journal of Modern African Studies*, 1.
- Ruf, François (1985a) 'Politiques et encadrement agricole: partage des tâches en Cote d'Ivoire', Abidjan: IRAT/CIRAD.
- Ruf, François (1985b) 'Politiques économiques et développement agricole: quelques points de repère dans les pays africains producteurs de cacao', communications au séminaire CIRAD, 'Etat, structures de développement et paysans', Abidjan, September.
- Ruf, François (1995) *Booms et Crises. Les Vertiges de L'or brun*, Karthala: Ministère de la Coopération, CIRAD-SAR.
- Ruf, F and Stessels (1986) *Relance de la caféiculture en Cote d'Ivoire: rapport de mission Banque Mondiale*, Montpellier: CIRAD/Banque Mondiale.
- Stinchcombe, Arthur L. (1997) 'Tilly on the past as a sequence of futures', in Charles Tilly, *Roads from the Past to the Future*, Lanham: Rowman and Littlefield.
- Thome, Joseph R. (1997) 'Land rights and agrarian reform: Latin American and South African perspectives', in Julio Faundez, (ed.) *Good Government and Law: Legal and Institutional Reform in Developing Countries*, London: Macmillan.