

“Problems of Land Kill Men”

Access to Land, Conflicts and *Chefferies* in Southwestern Togo

Introduction.

Based on fieldwork carried out from 2006 onwards in the southwestern region of Togo, this paper examines how access to land is still, to a great extent, linked to the social relationships that people are able to activate. Examining the dynamics of conflict management in some villages of the region and the historicity of the different agreements that allow the access to land, it is possible to understand how new strategies of land appropriation emerged and the role played by the colonial and post-colonial State.

The colonial project of conquest, at least in its very first phase, focused on population control, in particular through alliances with the village chiefs who were aiming at strengthening their own position in internal conflicts and often through the forced installation of chiefs where there had been none before. Very soon, it also aimed at controlling the land and at draining commodities towards the coast. This happened through a theoretical production regarding the local forms of land ownership that, most times, as in the case we will deal with here, became a real “invention of the tradition”. In order to legally validate those contracts undersigned between village chiefs, who were not the effective landowners, and European companies interested in creating new plantations, a perfunctory fixation of the jurisdictional borders among *chefferies* was made and theories were developed on “traditional” forms of “communitarian property” or “vacant land”, in order to legitimize the colonial *status quo* and to assure the possibility of the territory’s exploitation on behalf of administrators and private companies. To this point the necessity of colonial administration to settle the farmers on the land was added in order to simplify tax collection and control over the territory. Agricultural practices such as the “cut and burn” and the great population mobility hence derived, given the large extension of the available land, were prevented or strongly opposed, as pointed out by Moore and Vaughan (1994) in the case of Zambia.

The impact of the cocoa economy led to radical changes in the way of managing the land in southwestern Togo and led to the establishment of new modes of production which involved the deployment and massive settlement of northern migrant workers in the region. New forms of agreement between Ewe and migrants concerning the management of the resources began to develop. Before, the access to the land was managed within the lineage and depended on criteria of membership, to the extent that any descendant of the first occupier had, on principle, the right to

work the land (cultivating it for a couple of years, then letting it rest and reconvert to bush, and moving on to cultivating a new plot). Following market requests for export goods (palm oil and cacao above all) many lineage chiefs found it more convenient to convert the land into cocoa fields, which, being a semi-permanent cultivation, reduced the cultivable space for other members of the lineage, a reason that led to increasing conflicts and introducing a series of “privatistic” conceptions of property.

In addition to this, the colonial administration’s explicit program of “modernization” took shape. The attempt, starting from the 30s, was to create a class of small farming entrepreneurs dedicated to maximizing profits and rationalizing the practices: small “modern” farmers, emancipated from “traditions” and occupied with those export cultivations that were enriching the motherland. Despite being promoted by the colonial administration, private land ownership did not substitute previous forms of land management, but rather overlapped it in original ways.

Moreover, the processes of tribalization and of the settlement of new inhabitants in the territory, created the conditions for the local development of speeches on authenticity and for the production of stories on the first occupation of the region, stories and narrations that have an enormous political value regarding territorial disputes. The “traditions invented” by the process of colonial hegemony were re-appropriated, renegotiated and always exploited in diverse and contradictory forms by the local population. The legacy of juridical pluralism left by colonialism and that which concerns ownership rights as well as their inheritance conditions, opened the field to new forms of conflict management.

Not only are land conflicts useful for casting light on the problems of scarcity and disproportion of the redistribution of resources, but they also represent the privileged arena in which the competing subjects produce, re-elaborate, and use private and collective stories with the aim of legitimizing their instances, within scenarios in a constant state of change. We witness the revitalization and the production of case histories regarding the first settlements in the area, to legitimize the rights of the members of the first settled families in opposition to the more recently settled groups. These histories also become major issues in conflict with the attempts of the speculation of multinationals interested in the bauxite resources in the area. As Sara Berry (2002) observed: “The significance of land conflicts for contemporary processes of governance and development in Africa lies not only in the way they have been shaped by past events, but also in their salience as arenas for the production of history”.

Moreover, the forms of access to the land cannot be analyzed without referring to the social institutions who assure them (lineages, wedding agreements, forms of personal dependence, patronage systems, markets, state projects of rural development), social institutions all with a

diverse historical origin, that have modified through time and that still today emerge as the keys to accessing the practices of accumulation of resources and power. (Berry, 1989). From this point of view, the management of ownership conflicts allows the *chefferies* to play a vitally important role, revitalizing their position which was in a crisis of legitimacy compared with the support given (under threat, in many cases) to Eyadema's dictatorship. Nowadays this role has become increasingly important considering the rise in social tensions regarding land ownership in the region.

Peopling of the region and narratives of settlement into the territory.

"The Ewe people escaped from Agbogbome of Notsè, where they were living under the yoke of king Agokoli. This was the Ewe exodus. Not being able to go all in the same direction, each group had gone the way which seemed to be the best in order to avoid being captured. After a long march, a group, in which our ancestors are to be found, took refuge in the plain behind mount Agou (on the northern side), more precisely in Aguygbè. They were this way in search for cultivable lands and wanted to free themselves from the oppression of their chief. A part of the population of Aguygbè went round the mount and settled at its foot in a "big forest", which in Ewe is Ayegamè and that we today call Apegamè after the arrival of the white men. [...]. During the conquest of the warriors of the Ashanti reign, the people decided to hide their chief beyond the Aka river, hence the name of the Tomegbè village (today village of the chef canton of the area. Author's note.) This way the second village of Taviè was created after Apegamè.

Etsra, renowned hunter, together with his nephew Agbatsu Kele-Kele, often left Apegamè to go hunting in the area where today stands the village of Koumaow. Etsra and Abatsu Kele-Kele had the idea of installing themselves in those places where they hunted, in order to also have more cultivable lands, because the population of Apegamè had started to increase. Holding the secret power of true African hunters, Etsra had to know which was the most livable place, without risks of life danger such as illnesses, wars and natural calamities. Therefore, by way of oracle, he buried an egg, sowed some corn and drove a stick called "tsotsi" into the ground of a place called Wogbè. Back to the place, Etsra noticed that the egg had stayed identical to how he had left it, the corn hadn't germinated, and the tsotsi hadn't put on leaves.

Etsra held that the place called Wogbè had given an ill omen. He then decided to retry the whole procedure in an other place called Gawu. After a couple of days, he checked again: corn had grown luxuriant, a white chicken had been born from the egg and the tsotsi was full with leaves. This was a good omen for Etsra, who, caught the chicken and ground the corn, prepared the red pate as a sacrifice to the ancestors, on the place called Gawu, where he built his home. Etsra founded the first quarter, the name of which will be Gawudmè, of his village Koumaow, whose name means "death will never catch us" (story of the foundation of the village Agou Koumaow, written by a village notable in 2005).

The story, similar to many others I gathered in the area, makes references to the exodus from Notsè (whose dating is controversial, but probably occurred between the end of the XVI and the beginning of the XVII century), to the tyranny of the mythical king Agokoli, to the Ashanti invasion (1870). It clearly illustrates some of the main events preceding the colonial conquest and it provides us with a

good starting point in order to explain a few elements of local representations of the political role played by narratives of first settlement.

It is also important to note how the production of such narratives about the Notsè exodus had great popularity because of the crystallization and diffusion of the myth perpetrated by the German missionary Spieth, who, at the end of the XIX century, was the first one to both record and report it (see Gaybor, 1992, for a collection of a few of these narrations and a discussion on their diffusion). Spieth's version, taught in missionary schools and afterwards translated into French, became so well known that groups who had never considered themselves as Ewe, today refer to an origin in Notsè in order to legitimize common interests with them. This tendency already had origins in the 40s, with the pan-Ewe movement and the creation of an Ewe identity.

It is from this image of a first settlement that the legitimacy of land appropriation is reconstructed: the actual rights of access to the land are based on the membership to the lineage, founder of which was the first one to occupy the territory, often an hunter subtracting space from the forest (*ànyè*) in order to reconvert it to economically and socially productive land (*àgblè*). Saying that "There are no *womi* between us", where *womi* (or *womiti*) are the plants that normally separate the fields of different lineage, is an expression which strongly indicates a common feeling of belonging to the same origin. Conversely planting *womi* in the family land shows the willingness to divide the lineage.

Actually these narratives fall within an arena where subjects with diverse origins struggle in order to justify previous rights of access to the land and to reaffirm the autonomy of the Ewe *chefferies*, jealous of their independence when faced with external interferences (Pauvert, 1960). This narration was, regarding the Agou, strongly revitalized both to fight against the expropriation projects of an Anglo-Indian company aiming at exporting the mountain's bauxite, and, more generally, to reaffirm the compact opposition to the "Eyadema's clan", whose regime, mainly composed of *kabiè* people, is at times associated to Agokoli's one in terms of ferocity.

In 2007, after an investment agreement between the central State and an Anglo-Indian company, the latter was allowed to extract and export bauxite from the mountain. The project entailed moving many villages and the loss, to the disadvantage of the population, of land ownership. This fact triggered a wave of protests coordinated by the village chiefs, who, beside bringing to life the resistance myths associated to the Mount Agou ("our ancestors who fought the Ashanti, will chase away the new invaders") again, reinforced their relations with a net of NGOs and other associations concerned with environmental conservation on an international scale and, at the same time, increased the sacrifices to the protecting spirits of the mountains, many of whom were ancient warriors who had fought against Ashanti.

The project was never realized, probably not because of the protests, but rather because the actual president of Togo, Faure Gnassingbe, whose mother came from Agou, had decided to build a new private residence in the area and was not pleased with having a working mine nearby. It did, however, contribute to revitalizing the local memories connected to the mountain as well as the important role played by those who appear to be their legitimate guardians.

Forced migrations

The first settlements of forced workers from the North in the southwestern Togolese region of the colony can be traced back to the beginning of the XX century, when the German administration undertook the construction of railways and roads to link the Lomé port with the rich hinterland of the region of Kpalimé and started to utilize the labor force of the northern workers on the great private plantations. But it is during the subsequent period of French colonization and the politics of *mise en valeur* that we observe the project of a mass movement of people in order to officially populate the scarcely populated central and southern regions of the country. This move, in fact, concealed the need for having labor on the spot for the maintenance of the main communication lines.

The settlements emerging outside the Ewe villages, composed of people from the North (mainly Kabie and Losso) representing migrant labor for the whole colonial period, were subjected to a process of social exclusion and very often were considered, following the *doxa* of colonial anthropology, more “primitive” than the Ewes and more suited to physical labour. These stereotypes were reinforced by Ewe people after the coup d’état of Eyadema (a kabiè) and his “ethnicization” of the army (Toulabor, 1986). Still today 80% of the military force of Togo is composed of Kabiès and this is considered by some Ewes as “natural” in some ways, since “kabiè are physically strong”.

As pointed out by Piot (1999, p.161) the Kabiè communities settled in the South still maintain strong connections with the villages of origin: “The relationship between the communities of origin and their offshoots is seen as that of “parent” to “child”, and, as with the filial relationship generally, the latter are expected to “respect” the former. Such respect is especially evident on the occasion of rituals, when offshoot communities are expected to defer to their “parents” in the mountains”. As the author mentions, the migration resulted in being the context from which a series of Kabiè narratives emerged, tending to represent the rich southern lands in terms of binary opposition as “par excellence” sites of production, accumulation of resources and “modernity”, contrasting with the northern lands of origin, place of the rites, “traditions” and the family ties.

Cocoa economy

According to historical sources on the German colonial period, the Kpalimè/Agou region was the one in which the highest revenue from taxes is noticeable: 98% of the population paid 6 marks in order to avoid twelve days of forced labor (Gayibor, 1997, p.31). This is explainable because of the permeability of the border with the Gold Coast, where many Ewe would go as seasonal workers in the cocoa plantations. These seasonal workers are the ones who autonomously introduced the first cocoa plants to Togo.

The German administration never encouraged the cocoa cultivation. A 1899 mission of the botanist Wohltmann had declared the soil and the climate as unsuitable for this crop and that it would have been more useful to concentrate on cotton. Despite this fact, the 1899-1900 report mentions 276 cacao adult plants and 3,409 shrubs (one to three years old) owned by Togolese farmers. The cocoa exports amount to 13 tons in 1905, 283 tons in 1912 and 335 tons in 1913, of which only 36.5 tons from German plantations in the Agou region (Gayibor, 2005, pp. 367-368).

It should also be noted that most of the cocoa exported under the colonial period came illicitly from Gold Coast and was sold in Kpalimè, to the great disappointment of the British authorities “*whose*” cocoa was conveyed towards the harbor of Lomè, to enrich commercial enterprises other than their own. The creation of an arbitrary border between Togoland and the Gold Coast had incurred considerable problems for those farmers who found themselves being divided from their lands, but it also provided many with the possibility of smuggling or of taking advantage of the diverse tax systems on the two sides of the frontier (Nugent, 2002).

Cocoa contributed to create the possibility for many farmers to accumulate a small amount of monetary capital used for educating their children and, in many cases, for extending the farmland and paying workers from the northern regions.

During the subsequent oscillations of cocoa prices on the international markets and epidemic diseases such as swollen-shoot, farmers found it more useful to diversify the production and did not welcome certain state projects aimed at developing a particular type of product for export.

Interestingly, the economical crisis of the cocoa industry was often read in political terms. At the end of the 60s, Eyadema’s regime, with his plans for a “green revolution”, pushed the farmers to substitute the old cocoa plants with other ones requiring half the time to harvest. Such a variety however, proved itself to be not resistant in the dry season. Meanwhile, in Agou, swollen shoot disease had struck the old plants and many people blamed both the fertilizers sold by the white people and on a mystical intervention of Eyadema having pushed for the purchase of the new variety of plants. Many, unwilling to run the risks incurred in an investment in cocoa preferred to

reconvert their fields to palms or vegetables such as carrots, salad or cabbage which were more profitable in local markets. Still today, people openly distrust cocoa and those old enough to remember exactly how cocoa was to enrich the region ascribe such lack of initiative to the young generations as, “lazy and after easy money”.

“Young people don’t want to work the land anymore, they only think about emigrating”, whereas the land represents the nostalgic cornerstone on which the reconstruction of an imagined past is inserted, characterized by a higher moral fiber, by the respect of “traditions” (that is, the relations submitting women as well as the young generations to the will of the head of the family) and by solidarity ties within the village. We then witness the mythical idealization of an agricultural past, in which it is held that it was the individual or the group’s role to ensure the accumulation of wealth and social prestige possible and not, conversely, the current ambiguous practices linked to the market logic, often locally connected to witchcraft. This was an idealization built up in order to conceal the realities of abuse of power, slavery, exploitation of foreign workforces and violence connected to forms of agricultural production and the fact that such an economy already belonged to wide trade structures of macro level. Labor rhetoric also fed by colonial policies of agriculture, which targeted an increased productivity, and the education of the “lazy and bone-idle” indigenous population. An ewe song goes: “Working the land has not its own *dzo*¹, it’s all about waking up early in the morning”. The land therefore appears as metonymy of hard work ennobling values (versus the moral ambiguity of other better paid jobs, but regarded as disrupting the “community”), as well as attempt of actual legitimization of the submission of the youth to the older members of the domestic group.

Contracts and recent forms of installation

The first massive influx of voluntary migrants from the North (not only Kabiè, but also Losso, Bassar, Akposso) can be historically explained by the cocoa revenues. Many Ewe landowners and cocoa cultivators were in need of manual labor in the fields. This led to extremely different forms of contract that often resulted in “fixing” the labor permanently at the time of stipulating the contract. I considered it important to analyze such contractual dynamics for two main reasons. The first being that some of them are still in force today, the second being that many unsolved problems concerning the landed property are rooted exactly in this period. Furthermore, such contractual forms tend to be subject to modifications over time and to blend into each other. They clearly show how access to the land involves passing through a number of social institutions and the activation of

¹ The ambiguous concept of *dzo* recalls a series of acquired mystical powers, normally used for protective or curative purposes, but that can also partially cover the semantic field of *adze*: the “witchcraft” (see Meyer, 1999).

relational networks among subjects that often strengthens the local power structures (including those appointed to solve conflicts about the land).

The first form of contract does not entail a stable way of paying the laborer; the owner pays for a specific service (soil preparation, scraping, sowing or harvest). The remuneration is in money or agricultural products, such as in the case of labourers cutting palm for the wine production who are often remunerated with wine itself. The problems in this case emerge when the owner fails to calculate exact quantities of production as well as the selling price, therefore, without supervising the situation, he could run the risk of being defrauded.

An interesting case of this form of contract is the one of an old landowner from Agou Nyogbo, who made a significant amount of money in the 60s and 70s with cocoa cultivation and who used to remunerate the Kabiè seasonal workers with dog meat, an element necessary for Kabiè male initiation ceremonies and whose price increases considerably during the period of these ceremonies. This is a good example illustrating how production for a global market, aiming at satisfying European needs alongside the strategies of the accumulation of resources of an Ewe owner, is inserted into the need for consumption of a ritual product (dog meat) structuring the Kabiè rites of initiation: a process that ties transnational economy on a global scale to local processes of *anthropo-poiesis* through the dynamics of seasonal migrations.

The second typology of contract is called *nanà* (“donate”) and can be generally interpreted in two ways. In the first, a landowner who has planted palms on his property can grant the land to others for sustenance cultivation (yam, maize and cassava) for free. The worker will be able to keep his share of the harvest, but will have to take care of weeding the land around the palms of the owner, whose advantage lies in the fact that a good weeding favors the harvest and that, above all, when three or four years later the palms will produce too much shade for the laborer’s sustenance crops to grow, the latter will be compelled to move away. If this particular form of *nanà* in fact impedes a long-length settlement on the territory, it is observed that, in many cases, the owner, in return of long term service from the worker, grants the latter the permission to settle himself and his family on the land and to receive a small plot of land for subsistence. Many workers therefore start to settle permanently, exposing however their descendants to the risk of eviction ordered by the children or nephews of the original landowner, as the majority of the agreements are verbal.

In other cases it is possible that the owner agrees to receive the part of the harvest satisfying his requirements, leaving the surplus to the worker, who in his turn draws on the labour of seasonal workers, often young men from his home village, bound to him by degrees of kinship. Some cases allow for a better framing of the strategies of installation in the territory.

The first case deals with a trial held on March 13th, 2003, in which a man, whose wife had planted teak on a piece of land, summons a woman to court, responsible for having destroyed the plants. The woman claims the ownership of the land by virtue of a previous decree and her desire to cultivate other plants there. The man skillfully attempts to focus the attention only on the reasons more strictly connected to the woman's convocation, that is the eradication of the plants, despite being a clear attempt of acquiring land ownership in the future. The court reprimanded the woman for having acted on impulse in that she should have sought permission from the court before extirpating the trees from her land and, despite recognizing her ownership rights, she was commanded to reimburse part of the teak price. In other words, planting trees has always been one strategy for obtaining new lands, so popular in fact that for locals, when allowing others to cultivate their land, they have to supervise the farming closely so that only food crops are planted. In this case the attempt at land embezzlement failed, but another similar trial, held on 12/07/2001 has had long term repercussions:

The case opposes the members of the family bound to the god *Gbagba* to those of an other family responsible, according to the *Gbagbasi*, of having cut down palms in their territory. During the trial it is revealed that the defendants' grandfather, over thirty years before, had given the territory in *nana* in order to let the father of today's *Gbagbasi* cultivate and dry the mais destined for the ceremonies. Over time, the *Gbagbasi* had built a house on the land, had planted palms and used the *womi* as support to the yams, all typical strategies of land engrossing, land which is after all sustaining them and which they have been cultivating for over thirty years. The descendants of the first owner, though, attempts to demonstrate that in 1972, when a portion of land was handed over to the State for asphaltting the street, the *Gbagbasi* father gave the sum of money to their grandfather, recognizing him, through this gesture, as the legitimate owner.

The length of the dispute is partly explainable because of the absence of the direct protagonists of the episode, now deceased, and partly because of the heavy networks of patronage that each of the families is able to activate to their own support. Commenting on the case, many have told me that the *Gbagbasi* have in fact become the owners and that at best the others can obtain, as a gift, a small portion of the harvest.

The third form of contract that developed with the cocoa economy is the *dibi-ma-dibi* ("I eat, you eat"), more known in Agou as *de-me* (doing/dividing). In this case the worker and the owner agree on a partition of the harvest (regardless of it being from sustenance or export cultivations) ranging from division in equal parts, to a division in three parts where 2/3 goes to either the worker or the owner according to the regions, the historical period or the availability of labor and land.

If until the 1950s the availability of land still allowed for a stable settlement of migrants, nowadays the landowners pay considerable attention in order to avoid an effective change of ownership. Often the descendants of those owners who had granted plots of land to the workers for the self-sustenance, get even with the descendants of the latter, aiming at regaining possession of the land. In 2009 I witnessed the case of the son of an old Yoruba, migrated to Agou about 50 years earlier, who was called to trial because the descendants of the landowner, with whom the Yoruba had been in *de-me* and who had granted him the possibility of building a house on his land, claimed the rights of property over that same land. This land, meanwhile, had acquired considerable value thanks to the presence of the house and to the value of the field. The Yoruba won the trial due to the support granted to him by the *chefferie* and to the appearance of a document (probably false and pre-dated) stipulated between the previous landowner and the Yoruba. However the *chefferie* reminded him that, by virtue of the agreements previously stipulated, part of the harvest had to be paid out to the landowner's descendants, together with a sum of money.

Buying land

Having previously analyzed a series of contracts that establish durable ties among the contracting parties as well as extending themselves beyond even the biological life of the individuals, land transaction now needs to be considered.

Many insist on the non-convenience of integrally alienating the land, by virtue of the precarious and vulnerable conditions created by the current global situation. In 2007 for example, the entire mount Agou population opposed the project of an Anglo-Indian company of extracting bauxite. The company was proposing to purchase the land at a low price. The local opposition was motivated by the security of food production that the land is able to offer faced with the economic fluctuations: "That banana tree feeds me and will do the same for my children. Money soon or later ends". It needs to be added that, in order to sell the "family land", all those exercising their rights over it have to agree and the division of the collective funds does not make such a choice as attractive. Moreover, many believe in the risk of encountering the spirits of the ancestors who had first occupied the land and who oppose its selling.

The fact remains that lands are often sold and bought. Rather frequently people chose to invest their savings in the land purchase in order to become owners, this way avoiding the risk of other family members claiming their rights over the fragmentation. In the same way, selling is often the only way to assure an inheritance to daughters who might be outnumbered by the male members in the lineage. In 2009 I interviewed an old farmer from Agou Gadzepe, who confessed to wanting to sell the land since having only two daughters, he feared the other members of the family would

embezzle their inheritance when he died. On this last part, Togo's legislation, despite being clear on paper where it sanctions that the inheritance has to be equally divided regardless of any gender distinction, differently from the Ewe patrilinear forms of inheritance leaving the land only to the male members of the lineage, it is deeply ambiguous when in practice, as the Agou Prefect himself had stated in a personal communication, the majority of the problems connected to the land is dealt with by the *chefferies*, because "only the old men (male) know the limits of the fields".

This leaves a lot of margin to the free-will of each court. If it is true that many women are owners of their own fields, they are such either by virtue of an acquisition derived from their commercial activities, or because an agreement among siblings has been reached or thanks to a particular management of the *edonygba* (o *kolonygba*), a parcel of land given for use by the spouse's father to her husband, which is in fact perceived as being property of the spouse since it serves for her sustenance and it is often personally administered by her.

The following case deals precisely with a land transaction, and casts light on some of the risks incurred when buying a piece of land. In the first place, it is often hard to single out who is the effective holder of the rights of alienation of the land, secondly it often happens that a piece of land is sold twice, a reason why who buys starts off immediately by constructing on it, so as to signal that the land is no longer vacant. Moreover, this example proves how a series of factors both moral and of activation of social capital, results in being crucial for the purposes of the final judgment.

As attested in the records of the Agou Koumaow *chefferie*, the trial starts in 2004, when Esi (a woman from Koumaow, daughter of Adokri, an old and much feared vodusi of the village, married to Yovoto, an Akposso living in the neighbouring village of Gadzepe) calls Koenya to trial (a young girl living in their home and helping Yovoto who, for years, is bedridden) charging the latter for libel for having declared that she (Esi) was responsible for the husband's illness. Koenya defends herself claiming that Yovoto had asked her to get the receipt for land he had purchased in the village of Gadzepe and that she had discovered that also Esi had paid money into that same land in order to donate it to her children, and so she also asked for a receipt of purchase. Moreover, Yovoto told her how he became ill, after Esi had washed him during a ceremony. Koenya takes up saying that the landowners didn't accept issuing her with a receipt, given the fact that both Esi and Yovoto had required it to be in their names. At this point Adokri (Esi's father) declares that he was the one who paid for his daughter's land and that he had the receipt, while Esi affirms Koenya had threatened her saying "You'll settle it with the Akposso" (implicitly referring to the strong mystical powers Ewe are used to ascribe to the people who are living further North) and that also another woman, Abouya, had insulted her by saying she wanted to kill her husband.

The court postpones the trial to the following week and asks to discuss matters with the witnesses, but Abouya doesn't attend sending her husband instead, who declares that a certain Kossi (who will be discovered to be Esi's lover for seven years) had tried to corrupt her in order to make her give false testimony against Koenya.

The trial was adjourned again and finally Abouya appeared and, after having sworn on God and on the Vodou, tells the court how Esi has betrayed Yovoto with Kossi for years. The court finds Esi guilty of adultery and condemns her to pay a stiff fine.

But the vicissitude is not over yet. In march 2005 Yovoto summons Esi after she is refuses to cook for him for three months and is willing to leave him. He commands her to leave the house. Esi replies that she had stopped preparing food for him since Koenya had accused her of poisoning him. She also affirms that she wants to leave him for Kossi, but she points out that the house being hers, it is him who has to leave.

At this point, the land becomes the central issue. The court asks to see the receipts and both of them bring them along. The trial is again adjourned and the landowner is summoned..

It is then that people realize that, the owner being ill, three descendants have been acting in his place, his brother and two of the owner's sons, who all start accusing each other declaring that there had been no clarity: they accepted the money from both the parties not knowing about the tensions existing between Esi and Yovoto, despite being the strong suspect that they are all lying and that they had attempted to sell the land twice.

In the end the court, ascertaining that they could not see the problem through and that they could not charge the owners with fraud because of the lack of proof, declares Yovoto's receipt valid as it was issued before the other one. Esi is not satisfied, asks for a copy of the trial and threatens to take it up with the Prefecture.

The case is interesting for the deep interconnection among different matters (adultery, tensions among Ewe and Akposso, charges and counter-charges of witchcraft, attempts of land embezzlement on behalf of different subjects), from which it clearly emerges how any problem of land is not reducible only to its strictly economic aspects, but it also involves an entire social and moral asset which becomes part of the dispute. The uncertainty of defining the "landowner", such as it is conceptualized within the European juridical tradition, and the possibilities that this opens on the level of each single actor, triggers dynamics of profound social tensions, but on the other hand allows a wider collective benefit of the territory. The trial ends clearly showing the impossibility for the court to settle the case, given its complexity; but at the same time a verdict is reached founded simply on the dates of issue of the receipts, a verdict that damages Esi, already previously charged with adultery.

What does not emerge from the trial in itself, thus being of fundamental importance for the trial's understanding, is the bulk of social networks that are activated in order to win a case. Esi struggles with seeing her rights recognized not only because she is a woman and adulterous, but also because she is the daughter of Adokrì, who, as it is discovered later on, for years was in competition with the local *chefferie* and has been driven out by the notables after he had publicly criticized the current village chief's election, by claiming that the *chefferie* had to go to his lineage. Yovotò, on the contrary, despite not being from Agou originally, manages to activate stronger social networks, among which the *chefferie* of the village of Agou Gadzepè and a witness Akposo who is in the army.

Such an example confirms how fundamental, for the purchase of a property, are both the activation of social networks and the support of local structures of power that, within such conflicts, see their assets being reassured or renegotiated, and how specific principles of authority are reaffirmed as well as the moral values connected to them .

It therefore comes as no surprise the fact that part of the revenues from the agricultural activity are reinvested in order to extend such social capital rather than to maximize the production, the social institutions being the *condicio sine qua non* of access to the land, for the locals as well as for the migrants. Additionally, it is no surprise that the monopoly of the resolution of land conflicts, results in being one of the fundamental tools of regulating control over the population.

Conflicts of Interests and Interests in Conflicts

After having outlined the general though incomplete picture in which conflicts over land emerge, I will now turn my attention to the forms through which the dynamics of conflict management are articulated on the local level, in order to cast light on how locally, within a context where the plurality of subjects is legitimized as responsible for the resolution of social conflicts, spaces emerge for subjects who see their own position consolidated and strengthened by virtue of being capable of taking on the role of conciliator.

Generally, it is the structural distance between contending parties and the gravity of the offence that defines who is turned to in order to settle the conflict. If the dispute is between two members of the same lineage (*dzidzime*), then one must turn to the lineage chief (*fomedzikpola*: “the one watching over the family”) or to a delegate who will manage the matter. If instead the adversaries belong to different families, but within a same quarter, then the parties will have to turn to the quarter chief (*kɔmefia*).

In turning to the village chief (*dumefia*), the cases are usually those involving parties from different quarters or dealing with problems which could not be settled in the above mentioned places or, finally, matters whose protagonists are village chiefs or members of the royal court from other villages. It is mainly cases concerning debts, minor thefts, brawls or disputes, offences, adultery, witchcraft and, more increasingly, problems concerning the land. People apply directly to the police for cases of murder, whereas for theft it is considered more “human” to apply to the village chief. Since the police are sadly known for their brutality, the defendant’s family often bring the matter be dealt with to the village courts, in order to avoid the thief’s imprisonment (or the arbitrarily beating given by the military) in return for the restitution of the stolen goods and for the awarding of a fine. In recent decades, the growth of conflicts concerning land has hence brought a further legitimacy as well as a strengthening of the position above all of those figures known as “traditional authorities” delegated to solve such conflicts.

From a juridical point of view, as Rouveroy van Nieuwaal (1999) remarks, the German colonial authority prohibited practices such as oracle consulting as a form of resolution of conflicts because it was against the German judicial system. It also tried to integrate the village chiefs form of conflict

management within its own law, in order to reach a unity of rights, in a process of constructing the “traditional” right which triggered a process of double transformation for the *chefferies*. On one hand the reinforcement of the village chiefs’ power over the population occurred, on the other emerged their submission to an external authority, fixing the limits and conditions to their existence. Building up the figure of the village chiefs as main representative and responsible for the population, did not only result being useful for the colony’s administrative structure. The Agou region, in fact, by the end of the XIX century and throughout the XX, became the object of extensive land speculation put forward by European companies, who legitimized the purchase of huge portions of land for establishing plantations, thanks to the sale of contracts signed by village chiefs, who, despite not being the factual owners of land belonging to other lineages, were considered by Germans as holders of the alienation rights over the “communal” villages lands.

Under French administration, the *chefferies* role changed again. As Rouveroy van Nieuwall remarks (2000, p.113): « L’essentiel était que ces fonctions de règlements des litiges étaient strictement limitées à la conciliation en matière civile et commerciale. Le législateur français, à l’inverse de son homologue allemand, entendait réduire encore plus avant ces fonctions. Les compétences des chefs dans le domaine pénal, encore tolérées dans la période allemande, leur furent retirées dès le début ». On one hand, courts were instituted where the French colonial right was applied, on the other, the “*tribunaux coutumiers*”, where the “traditional rights” should have been applied, were preserved and delegated to the mere conciliation of the parties. The “traditional rights” were instead transformed and constructed according to a “civilizing mission”, and therefore, purged of all those norms that were explicitly in contrast with the French juridical systems.

The author also underlines how such a double legal system still persists today. The attempt of unifying the juridical system that Togolese legislators had begun at the core of Eyadema’s regime in 1978 only reaffirmed the *chefferies* in their exclusive role of conciliators of civil and commercial matters, operating within an “ideology of juridical centralism” (according to one of Griffith’s expressions, 1986) aiming at concealing that the role played by the *chefferies* in the resolution of conflicts was in fact going beyond mere reconciliation, although it was dealing with the rights of access to the land and with witchcraft processes as well (in which the consultancy of the oracle results as being a practice still in force today, despite the colonial efforts of eradicating it from the forms of conflict management).

While it is easily understandable how the village chiefs’ court could be influenced in the case of accusations of witchcraft (because the western laws fail to recognize witchcraft as chargeable), in the case of conflicts concerning land, we need to consider both the scarcity of courts of primary jurisdiction, often substituted by the free will of the military, and the fact that “only the elderly

know the limits of the land”, as the Agou Prefect reported to me. He himself sends the great majority of these matters back to the village chiefs’ courts.

The increase in activities of “conflict regulation” perpetrated by the armed forces based in the area (whose arbitrary violence and corruptibility intensified the mistrust towards the central state, ruled for decades by the iron hand of general Eyadema’s regime) progressively generated a privatization of conflict management. Even today it often happens that a creditor promises a police officer a percentage of money in the case that the latter manages to speed up the payment of a debt.

We should also mention that today the transfer of ownership of land, through the bureaucratic procedures of the State, is extremely expensive and the majority of people prefer to utilize the *chefferie* as witnesses for the transaction, utilizing the packaging of a bottle of gin brought by the buyer as proof. Only who is better positioned in the economical and political hierarchy of the State can utilize the formal procedures. In general the extension of this bureaucratic apparatus is intended to reinforce the “formal” owners’ rights, causing processes of exclusion and discrimination of other right-holders. According to Shipton and Goheen (1992, p.316), “one must always ask, *which* rights are made secure for *whom*?”.

It may be correct to propose, in these cases, the concept of *forum shopping*, meaning the possibility for a subject to choose among a number of institutions (in or outside the State) competent in the resolution of a conflict, without though hiding the fact that not all courts are equivalent in managing any matter. For specific problems (witchcraft, adultery or ownership of land), turning to “traditional” authorities is often an obliged choice, as in all murder cases which are dealt with by the police force and by State courts exclusively. The local court of a village chief may refuse to manage a problem and hand it over to someone else, either because a few steps in the process have not been executed correctly, or because of offences to a member of the court by one of the parties involved in the case. It is then possible for the defendant to choose a particular court if doubts concerning the impartiality of the “judge” arise.

Moreover, for the resolution of tensions that have lasted for many years, complex problems exist such as the absence of clear cadastral documents or written wills, or, on the contrary, due to the recent proliferation of false pre-dated wills, contradictory documents and the death of many witnesses, it is unavoidable that a series of matters are destined to be left open, re-emerging in new forms and contributing to feeding long lasting conflicts and tensions in this way.

In other words, the existence of a range of choices among different courts and institutions to which to apply for the resolution of a problem implies the existence of conditions to increase one’s own authority by entering in the field of conflict regulation. Consequently, if it is important to analyze the *conflicts among opposed interests* which oppose groups or individuals, it is just as fundamental

to take note of the *interest in the conflicts*, which pledges the legitimacy consolidation in the local political field. It is by virtue of this fact that *chefferies* have preserved their credibility even when faced with accusations of collusion with the regime.

Conclusions

The impact of the cocoa economy led to radical changes in land management creating the conditions for forms of production which involved the deployment and massive settlement of northern migrants in the region. Cocoa, introduced to Togo by seasonal Ewe workers returning from Gold Coast, contributed to triggering a process of privatization of the land and to the emergence of a new class of small landowners who started to invest in the education of their children, finding themselves increasingly connected to the uncertainties and oscillations of the market economy.

Despite this, the privatization processes of the land, although incentivized by the colonial administration and the post-colonial state, did not substitute the previous forms of land management, but rather overlapped them in new and original ways.

The access to the land is still, to a great extent, linked to the social networks of power that people are able to activate. New strategies of land embezzlement are evident (production of histories, planting trees, repositioning the *womiti*, contesting old agreements in order to exclude the descendants of immigrants settled on the territories belonging to the lineage, etc..).

At the same time, management of ownership conflicts, mainly delegated to the *chefferie*, allowed them to play a vitally important role and to revitalize their position, which was in a crisis of legitimacy faced with the support given to Eyadema's dictatorship, in particular if we think of the increase of social tensions noticed in recent years.

Purchasing land has become the best way to immobilize capital for the emerging new elite in the country. Selling it, on the contrary, is at times the only strategy for those hoping to reinvest their last resources in more risky but certainly more profitable activities. New ways of accumulating wealth have emerged: long range migration, enrollment in the army, work as motorbike or taxi drivers, NGO and smuggling as well as the witnessing of a massive increase in the mobility of young people towards the capital. Working the land appears to be at once little remunerative and yet necessary in a context which is uncertain but capable of generating new opportunities for those in a position of taking advantage, and at the same time of rapidly castrating those who cannot enjoy the same position.

Today the tense situation concerning the land is ever-increasing. The state system collapse in all public sectors (with the exception of the army, to the sustenance of which goes a large part of State resources and that increasingly attracts the interest of the younger generations, also women, given

its recent extension to females as well) - a collapse justified with programs of adjustment and decentralization, the failure of industrialization projects in the phosphate sector, all contributed to an increase in the demand for land. This increase clashed with the progressive reduction of the available territories and the uncertainty generated by the multiple claims, hardly settled by political authorities.

Of a hundred trials - ranging from 1989 until today- which I could gather from the analysis of the records of the *chefferie* of Agou Koumaow (a village of just 600 inhabitants) and from the direct experience during my stay, the majority concerns land problems.

In other words, if it is true that the land is the main source for the sustenance of the majority of the Togolese people, it is just as understandable when stated like this: *Hanygba nyala ameye wowuna* (“problems of land kill men”).

References

- Ali-Napo, P. 1995. *Le Togo à l'époque allemande : 1884-1914. Thèse de doctorat d'Etat en lettres et sciences humaines*, Paris I, 5 volumes.
- Benda-Beckmann, F. 2002. “Who is afraid of Legal Pluralism?”, *Journal of Legal Pluralism*, vol. 47, pp.37-83.
- Berry, S. 1989. “Social Institutions and Access to Resources”, *Africa: Journal of the International African Institute*, Vol. 59, No. 1, Access, Control and Use of Resources in African Agriculture (1989), pp. 41-55.
- Berry, S. 2002. “Debating the Land Question in Africa”, *Comparative Studies in Society and History* Vol.44, No. 4, pp.638-668.
- Berry, S. 2004. “Value and Ambiguity: Evidence and Ideas from African “Niche Economies”. *African Economic History* n°32, p. 149-150.
- Cornevin, R. 1969. *Histoire du Togo*. Paris: Editions Berger-Levrault.
- Gayibor, N. L. 1992. *Les Peuples du Sud-Togo*. Lomé: Presses de l' UB
- Gayibor, N.L. 1992. *Traditions historique du Bas-Togo*. Niamey : Collection Etude n. 1.
- Gayibor, N.L.1997. *Histoire des Togolais, Volume I: des origins à 1884*, Lomé: Presses de l'Université de Benin
- Gayibor, N.L. 1997. *Le Togo sous domination coloniale (1884-1960)*. Lomé: Les Presses de l' UB.
- Gayibor, N. L. 2005. *Histoire des Togolais, Volume II*. Lomé: Presses de l' Université de Benin
- Geschiere, P.L. 1984. « La paysannerie africaine est-elle « captive » ? Sur la thèse de Gorn Hyden, et pour une réponse plus nuancée ». in *Politique Africaine*, n. 14, pp. 13-33.

- Griffiths, J. 1986 . 'What is legal pluralism?' *Journal of Legal Pluralism* 24: 1-55.
- Guyer, J.I. 1984. "Naturalism in Models of African Production". *Man, New Series*, Vol.19, No.3, pp. 371-388.
- Klute, G., Embalò B., Borszik A.K., Embalò I. (eds.), 2008. *Experiências Locais de Gestão de Conflitos*. Inep, Bissau.
- Lawrance, B.N. 2002. *Shaping States, Subverting Frontiers : Social Conflict and Political Consolidation among the Ewe dukwo in the Togoland Mandates, 1919-1945*. Stanford University.
- Lawrence, B.N. 2003. *En Proie à la Fièvre du Cacao: Land and Resource Conflict on an Ewe Frontier, 1922-1939*, in *African Economic History*, No. 31 (2003), pp. 135-181.
- Marguerat, Y. 1992. *Lomé: une brève histoire de la capital du Togo*, Lomé Paris: Karthala
- Meyer, B. 1999. *Translating the Devil. Religion and Modernity among the Ewe in Ghana*. African Word Press.
- Moore, H. and Vaughan, M. 1994. *Cutting Down Trees: Gender Nutrition and Agricultural Change in the Northern Province of Zambia, 1890-1990*. Ports-mouth, N.H.: Heinemann.
- Moore, S.F. 2005. *Law and Anthropology. A reader*. Blackwell Publishing.
- Nugent, P. 2002. *Smugglers, Secessionists and Loyal Citizens on the Ghana Togo Frontier*. Ohio University Press.
- Pauvert, J. 1960. « L'évolution politique des Ewe », *Cahiers d' Études Africaines*, Vol. 1, pp. 161-192.
- Piot, C. 1999. *Remotely Global. Village Modernity in West Africa*. The University of Chicago Press.
- Piot, C. 2010. *Nostalgia for the Future. West Africa after the Cold War*. The University of Chicago Press.
- Rouveroy van Nieuwall, E. A. B. van, van Dijk, R. 1999. *African Chieftaincy in a New Socio-political Landscape*. African Studies Center, Leiden, The Netherland.
- Rouveroy van Nieuwall, E. A. B. van. 2000. *L'Etat en Afrique face à la Chefferie. Le cas du Togo*. Paris: Karthala.
- Shipton, P. et M. Goheen 1992. "Introduction. Understanding African Land-Holding: Power, Wealth and Meaning", *Africa: Journal of the International African Institute*. Vol.62, N°3, pp. 307-325.
- Toulabor, C.M. 1986. *Le Togo sous Eyadema*. Paris: Kartala.
- Trotha, T. von. 1996. *From administrative to Civil Chieftancy. Some Problems and prospect in African Chieftancy*. *Journal of Legal Pluralism*, n. 37-37, pp. 79-107.

