1 Who Owned What?

Early Debate over Land Rights and Dispossession

Land grabbing in West Central Africa has a long history. Since the late sixteenth century, different local actors have clashed over who has the right to use land and have claimed rights over occupancy. Control over land, resources, and people represented power in different contexts, and not every actor shared a common understanding about claims and rights. At the early contact between Europeans and African leaders on the coast of Africa in the sixteenth and seventeenth centuries, in some regions, such as Elmina, landlords authorized European settlement and establishment of trading posts. In these circumstances, African rulers charged rent to European traders, who recognized the authority and followed the negotiated rules over trade operation and construction of fortresses, for example.[1] This kind of agreement neither represented subjugation nor limited African rulers' control over their territory or subjects. However, in West Central Africa, Portuguese agents claimed that these agreements represented conquest or acquisition of territory, leading to the foundation of the towns of Luanda (1576) and Benguela (1617), and expanding dominium rights over territories and their inhabitants. For more than three centuries, the Portuguese empire employed different policies regarding land rights and access, in part due to the resistance of African authorities but also due to the limited knowledge possessed by the Portuguese Crown about the peoples who inhabited West Central Africa, their legal practices, and their political organization.[2]

[1] For description of early contact in Elmina, see Harvey M. Feinberg, *Africans and Europeans in West Africa: Elminans and Dutchmen on the Gold Coast during the Eighteenth Century* (Philadelphia: American Philosophical Society, 1989). For more on how European traders recognized African landlords, see Pernille Ipsen, *Daughters of the Trade: Atlantic Slavers and Interracial Marriage on the Gold Coast* (Philadelphia: University of Pennsylvania Press, 2015).

[2] For more on this, see Ilídio do Amaral, *O Reino do Congo, os Mbundu (ou Ambundos), o Reino dos "Ngola" (ou de Angola) e a presença portuguesa de finais do século XV a meados do século XVI* (Lisbon: Ministério da Ciência e da Tecnologia/ Instituto de Investigação Científica Tropical, 1996); Ilídio do Amaral, *O consulado de Paulo Dias de Novais: Angola no último quartel do século XVI e primeiro do século XVII* (Lisbon: Ministério da Ciências e da

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This chapter examines that long history of land use and rights, from the late sixteenth century to the late eighteenth century, underscoring changes. Ndembu and Ndombe populations regarded first settlers' rights of occupation, usually understood as rights of possession. Other groups figure into the analysis as well, but Ndembu and Ndombe people are important since they inhabited the north and south of the Kwanza River, respectively, and nowadays their descendants are identified as Kimbundu and Umbundu speakers, respectively. The long shift observed here is therefore not limited to a single region or community of West Central Africa. As in other regions of the African continent, first settlers hosted the migrant population and provided them access to land, but later-comers did not enjoy ownership rights, such as harvesting tree crops or the ability to host other migrants. Clashes happened when migrants who were granted rights to use land sought to transform their temporary privileges into more permanent rights of ownership, or when strangers, including the Portuguese, acted as de facto landlords.

Between the sixteenth and eighteenth centuries, ideas about land use or occupation morphed into ownership rights. The events and changes that took place in this time period formed the basis for the eventual implementation of property rights in West Central Africa during the nineteenth century. The Portuguese presence and colonialism in this region date back to the late sixteenth century, so they existed alongside the West Central African notions of land occupation and sovereignty for hundreds of years before the nineteenth-century transformation. How rulers and commoners expressed ideas about wealth is also an important matter for understanding the economic history of this region and for placing West Central Africa in the growing scholarship on the dynamics of property and expropriation in the colonized world.[3] Contrary to

Tecnologia/ Instituto de Investigação Científica Tropical, 2000); Beatrix Heintze, *Angola nos séculos XVI e XVII. Estudo sobre fontes, métodos e história* (Luanda: Kilombelombe, 2007); Mariana P. Candido, "Conquest, Occupation, Colonialism and Exclusion: Land Disputes in Angola," in *Property Rights, Land and Territory in the European Overseas Empires*, ed. José Vicente Serrão et al. (Lisbon: CEHC-IUL, 2014), 223–33, http://hdl .handle.net/10071/271.

3   Sara Berry, "Debating the Land Question in Africa," *Comparative Studies in Society and History* 44, no. 4 (2002): 638–68; Martin Chanock, "A Peculiar Sharpness: An Essay on Property in the History of Customary Law in Colonial Africa," *The Journal of African History* 32, no. 1 (1991): 65–88; Miriam Goheen, *Men Own the Fields, Women Own the Crops: Gender and Power in the Cameroon Grassfields* (Madison: University of Wisconsin Press, 1996); Christian Lund, *Local Politics and the Dynamics of Property in Africa* (New York: Cambridge University Press, 2008); Carola Lentz, *Land, Mobility, and Belonging in West Africa* (Bloomington: Indiana University Press, 2013); Assan Sarr, "Land, Power, and Dependency along the Gambia River, Late Eighteenth to Early Nineteenth Centuries," *African Studies Review* 57, no. 3 (2014): 101–21; Cheryl Doss, Ruth

conventional understanding expressed in the literature, West Central Africans grappled with debates about land tenure and rights well before the late nineteenth century.

Documents record how some West Central African groups, particularly Kimbundu speakers such as Caculo Cacahenda and other Ndembu populations north of the Kwanza River, understood land rights. However, for other regions, particularly south of the Kwanza River, the dearth of detailed and dated evidence renders a clear reconstruction of property regimes a challenge. The fact that Ndombe or Kwanyama societies did not dispose of or sell land, or that land was not commodified, does not indicate the absence of an idea of use or occupation rights. Nor does it suggest that land use and occupation rights were static. Assuming that things belong to an individual reinforces the intrinsically violent aspect of asserting rights over people and resources and denies the community's shared commitment to common goals. Recognized rights over a plot of land come at the expense of someone else who cannot enjoy the privilege. If an individual belongs to a person, it is because the enslaved person's rights are denied. In different African societies, land rights are intimately connected to the ability to host people and rely on their labor, and West Central Africa is not an exception.[4] Thus, as I will examine in later chapters, there is a clear connection between asserting rights over people and land.

Meinzen-Dick, and Allan Bomuhangi, "Who Owns the Land? Perspectives from Rural Ugandans and Implications for Large-Scale Land Acquisitions," *Feminist Economics* 20, no. 1 (2014): 76–100; Aharon Grassi and Jesse Salah Ovadia, "Trajectories of Large-Scale Land Acquisition Dynamics in Angola: Diversity, Histories, and Implications for the Political Economy of Development in Africa," *Land Use Policy* 67 (2017): 115–25; Lauren Honig, "Selecting the State or Choosing the Chief? The Political Determinants of Smallholder Land Titling," *World Development* 100, no. Supplement C (2017): 94–107; Karen B. Graubart, "Shifting Landscape. Heterogenous Conceptions of Land Use and Tenure in the Lima Valley," *Colonial Latin American Review* 26, no. 1 (2017): 62–84; Tamar Herzog, *Frontiers of Possession. Spain, Portugal in Europe and the Americas* (Cambridge, MA: Harvard University Press, 2015); Brenna Bhandar, *Colonial Lives of Property: Law, Land, and Racial Regimes of Ownership* (Durham, NC: Duke University Press Books, 2018); Toby Green, *A Fistful of Shells: West Africa from the Rise of the Slave Trade to the Age of Revolution* (Chicago: Chicago University Press, 2019).

4 Sara Berry, *Chiefs Know Their Boundaries: Essays on Property, Power, and the Past in Asante, 1896–1996* (Portsmouth, NH: Heinemann, 2001); Holly Elisabeth Hanson, *Landed Obligation: The Practice of Power in Buganda* (Portsmouth, NH: Heinemann, 2003); Benjamin N. Lawrance, "'En Proie à La Fièvre du Cacao': Land and Resource Conflict on an Ewe Frontier, 1922–1939," *African Economic History* 31 (2003): 135–81; Lentz, *Land, Mobility, and Belonging in West Africa*; Sarr, "Land, Power, and Dependency," 101–21; Suzanne Schwarz, "Adaptation in the Aftermath of Slavery: Women, Trade, and Property in Sierra Leone, c. 1790–1812," in *African Women in the Atlantic World: Property, Vulnerability and Mobility, 1660–1880*, ed. Mariana P. Candido and Adam Jones (Woodbridge: James Currey, 2019), 19–37.

While written documents and narratives of migration clearly indicate that the West Central African population exercised rights in land and had political and territorial authority, colonialism was based on possession of land and controlling people. Rights of possession or dispossession of land were not stable categories for any of the actors involved but were the result of intense disputes and conflicts among social groups and between elites and the lower classes. In the context of European invasion and conquest in West Central Africa by the late sixteenth century, local rulers, the sobas, and their subjects resisted land expropriation, though not necessarily in successful ways. "Violence against enclosure, for instance, reflected a variety of point of views – on positions, on intrusions, on trespass, indeed on property rights."[5] In many ways, the resistance was also against conquest more broadly and in opposition to the Portuguese's assumption that they could claim rights over the territories and people they occupied.[6] The reigning interpretation has obscured the evidence of a counterhistory, which recognizes West Central Africans grappling with land rights since the sixteenth century.

West Central African Notions of Land Use and Occupation Rights

One of the challenges for understanding local practices of land rights is the lack of any systematic recording of how the Bantu populations south and north of the Kwanza River, as well as non-Bantu groups such as the Nyaneka, !Kung, and Nkhumbi, dealt with jurisprudence, including ownership and transmission regime. By the time evidence about ownership rights began to be recorded in the early twentieth century, the issue of who enjoyed rights over land, people, and cattle had already caused dispute, dispossession, and contestation for centuries. Colonial officials systematically missed out registering Axiluanda or Ndombe interpretations and understanding of land occupation, which rendered them as lacking land tenure regimes. Fast forward 80 years, and then, by the

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[5] Rosa Congost, "Property Rights and Historical Analysis: What Rights? What History?," *Past & Present*, no. 181 (2003): 94.

[6] For similar situations, see Anthony Pagden, "Law, Colonization, Legitimation, and the European Background," in *The Cambridge History of Law in America*, ed. Michael Grossberg et al. (Cambridge: Cambridge University Press, 2008), 1–31; José Vicente Serrão, "Property, Land and Territory in the Making of Overseas Empires," in *Property Rights, Land and Territory in the European Overseas Empires*, ed. José Vicente Serrão et al. (Lisbon: CEHC-IUL, 2014), 9, http://hdl.handle.net/10071/2718; Suzanne Schwarz, "'A Just and Hounorable Commerce': Abolitionist Experimentation in Sierra Leone in the Late Eighteenth and Early Nineteenth Centuries," *African Economic History* 45, no. 1 (2017): 25–26.

second half of the twentieth century, scholars helped spread the notion of precolonial societies characterized by the absence of land tenure regimes.[7] Early accounts paid attention to how West Central African rulers claimed dominium rights, but not necessarily how common people exercised or claimed rights, particularly in relation to land use and access. Dispersed accounts provide some clues and reveal how the local population related to land tenure regimes, but most of them were collected in the late nineteenth or early twentieth century. By then, the notion that land could be bought and sold was consolidated in Europe, and jurists, missionaries, and colonial officers assumed that individual property rights were superior to other forms of ownership, such as collective ones.

For the communities that inhabited West Central Africa and its interior, and probably most of western Africa, land rights had been based on the principle of first occupation: Land belonged to the groups who arrived first, occupied it, and used it for cultivation or animal husbandry. Military conquest could also establish rights over lands. Land rights were collective, and kinship guaranteed access to the land by living and deceased members. Rights of use and occupation were transmitted to following generations, resulting in competition and negotiation with neighboring populations. This practice justified, for example, the idea that the Ndombe people were the first occupants of what became known as the Cattle Bay, as well the Axiluanda as the first settlers of the Luanda coast and inland (see Map 1.1). Ancestors guaranteed rights over possession and use of the land, and the heads of lineages arbitrated claims for its use through a series of obligations and patron–client links.

This system was not so different from the Portuguese concept of land conquest and occupation that prevailed until the mid-nineteenth century. Individuals could use the land, but its ultimate dominion rested on the Crown, not on individuals. In the areas under Portuguese rule, land access in Angola was regulated through the *sesmaria* regimen put into effect in mainland Portugal and its empire until the nineteenth century.

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[7] See, for example, Jack Goody, *Death, Property and the Ancestors* (Stanford: Stanford University Press, 1962); Jan Vansina, *Paths in the Rainforests: Toward a History of Political Tradition in Equatorial Africa* (Madison: University of Wisconsin Press, 1990); A. G. Hopkins, *An Economic History of West Africa* (New York: Columbia University Press, 1973); Jan Vansina, *How Societies Are Born: Governance in West Central Africa before 1600* (Charlottesville: University of Virginia Press, 2004); Wyatt MacGaffey, *Kongo Political Culture: The Conceptual Challenge of the Particular* (Bloomington: Indiana University Press, 2000). For similar criticism of misconceptions about property rights in African societies, see Lentz, *Land, Mobility, and Belonging in West Africa*, 9–12; Assan Sarr, *Islam, Power, and Dependency in the Gambia River Basin: The Politics of Land Control, 1790–1940* (Rochester, NY: University of Rochester Press, 2016), 59–83.
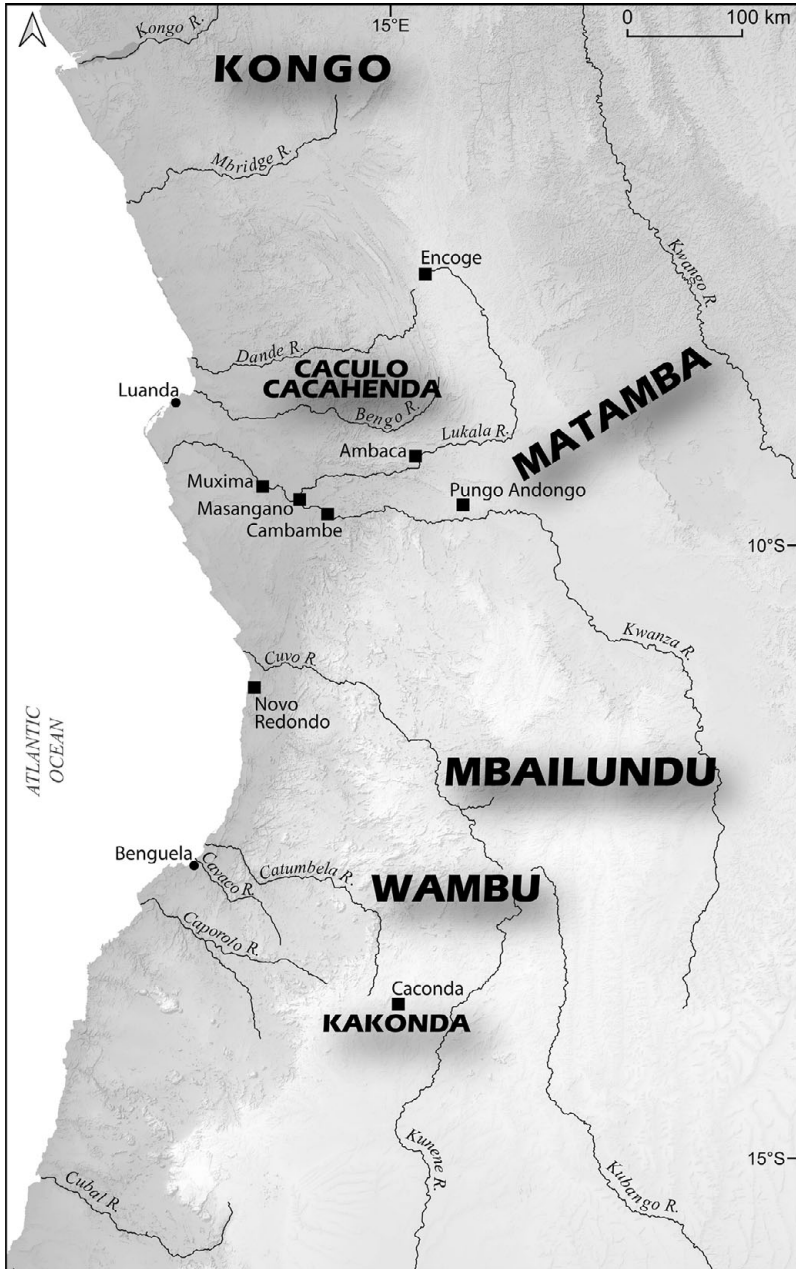
Map 1.1 Political Organizations of West Central Africa

According to the *sesmaria*, individuals could lease land for cultivation and assume the responsibilities related to its costs, thus freeing the state from investment. The land was not seen as owned but held, which allowed individuals to use it for cultivation or grazing, without having the right to dispose of it.[8] Thus, individual property rights over land did not exist in Portugal when *conquistadores* arrived in West Central Africa, putting the lie to narratives that individual ownership over land had always existed in Europe, a central argument used to justify land seizure and colonialism in the late nineteenth century. West Central African and Portuguese populations shared similar understandings about occupation and land rights.

Besides migration narratives that establish first settler claims among several West Central African groups, some chiefs appropriated the language and mechanisms of creating proof for their land claims, forming their own state archives to document their rights over land occupation. Éve Sebestyén, Ana Paula Tavares, and Catarina Madeira Santos have located written documents dating back to the seventeenth century that demonstrate that dynastic lineages kept records legitimizing their access to power and their privilege as the first settlers.[9] Most of these documents are written in Portuguese, but some are also in Kimbundu, showing chiefs appropriated writing and the paper culture to strengthen their political and territorial authorities. State archives, such as the Caculo Cacahenda archive, provide rich information that place Ndembu populations as legitimated landlords divided into different chiefdoms, as can be seen in Map 1.1 (an issue examined further in Chapter 3). These documents recorded migration, settlement, and the founding of villages to verify and validate traditions of land use and rights, probably an attempt to prevent Portuguese claims over Ndembu territory. They also describe in careful detail the boundaries of villages. It is not clear the intent of the Ndembu elite in creating the records and eventually the archive, but one can imagine their goal was to employ these documents as evidence for any possible land claims.

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[8] Aida Freudenthal, *Arimos e fazendas: A transição agrária em Angola, 1850–1880* (Luanda: Chá de Caxinde, 2005), 137–39; Tuca Manuel, *Terra, a tradição e o poder. Contribuição ao estudo etno-histórico da Ganda* (Benguela: KAT – Aguedense, 2005); Dias Paes, "Escravos e terras."

[9] Éve Sebestyén, "Legitimation through Landcharters in Ambundo Villages, Angola," *Perspektiven afrikanistischer Forschung* , in eds. Thomas Bearth, Wilhelm Mohlig, Beat Sottas and Edgar Suter (Cologne, Germany: Rudiger Koppe Verlag, 1994), 363–78, and Ana Paula Tavares and Catarina Madeira Santos, *Africa Monumenta: A apropriação da escrita pelos africanos* (Lisbon: IICT, 2002).

In fact, for most of the seventeenth and eighteenth centuries, the colonial administration recognized sobas, *dembos*, and *mani* as lords of their lands in different colonial records and in some cases arbitrated land disputes between neighboring rulers. In 1739, the governor of Angola, João Jacques de Magalhães, wrote to the ruler of Caculo Cacahenda, Dembo Sebastião Francisco Xeque, recognizing him as the recently invested ruler with the support of his subjects and councilors (*macotas*) and tributary rulers (*sobas*). In this letter, Magalhães states,

Dom Sebastião Francisco Xeque is the lord of the lands of Caculo Cacahenda, able to enjoy all the honors, privileges, liberties, exceptions, and honesty, as his predecessors, with close relationship with the Majesty [of Portugal]. … Dom Sebastião Francisco will enjoy the same conditions as those who preceded him in those lands and is obliged to [provide] the same service to me and those who will succeed me in the services of Your [Portuguese] Majesty.[10]

In oral traditions and written documents, ruling elites claimed rights of land occupancy based on narratives of migration and occupation of territories, which consolidated rights over resources such as land, rivers, lakes, and fauna and flora. In 1798, the soba of Humbe, identified as Nkumbi, argued that he had jurisdiction over his lands since "his ancestors had secured possession from time immemorial."[11] Firstcomer narratives settled disputes among several societies, mixing early settlement and ancestors' origins with access to land and full membership rights in their societies. Insiders were considered landlords, demonstrating that the argument claiming that land tenure regimes did not exist in African societies needs to be revisited.[12] In 1759, several sobas wrote to the governor of Angola to complain about the behavior of Jesuit priests who had "usurped the lands of their ancestors, with the evasion and cunning that were natural to them."[13] The residents along the Bengo River also complained about losing control over their land for more than

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[10] Tavares and Madeira Santos, *Africa Monumenta*, doc. 3, "Carta de confirmação passada pelo Governador de Angola a Dom Sebastião Francisco Cheque," March 2, 1739, pp. 57–58.

[11] Instituto Histórico Geográfico Brasileiro (IHGB), DL81,02.31, "Comunicação para o Rei de Portugal," 1798.

[12] For similar suggestions, see Hanson, *Landed Obligation*, 41–52; Lentz, *Land, Mobility, and Belonging in West Africa*, 5–8 and 127–65; Sarr, "Land, Power, and Dependency," 104–5.

[13] Arquivo Histórico Ultramarino (AHU), caixa (cx.) 46, document (doc.) 4261, "Carta de António de Vasconcelos, governador de Angola, para o Conde de Oeiras. São Paulo de Assunção de Luanda," May 14, 1760. I am thankful to Crislayne Alfagali who shared her own transcription of this document with me.

Illustration 1.1 Portrait of the ruler of Caculo Cacahenda with his advisors, early twentieth century. The photograph reveals the different textiles worn as well as the variety of symbols of power, including shoes, hats, and scepter.
(*Source*: "O Dembo Caculo Cahenda e seus principais macotas," Arquivo Histórico Ultramarino.)

fifty years.[14] These cases from the eighteenth century reveal that Portuguese administrators recognized African sovereigns as the legitimate occupiers of the land despite the encroaching actions of the Jesuit priests.

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[14] Maria Adelina Amorim, "A Real Fábrica de Ferro de Nova Oeiras. Angola, séc. XVIII," *CLIO – Revista do Centro de História da Universidade de Lisboa*, 9 (2003): 189–216 and Crislayne Alfagali, *Ferreiros e fundidores da Ilamba: Uma história social da fabricação do ferro e da Real Fábrica de Nova Oeiras (Angola, segunda metade do século XVIII)* (Luanda: Fundação Agostinho Neto, 2018), 113–14.

Struggles for power and land were closely related, and their records on paper created an interesting dynamic between local forms of knowledge, paper culture, and legitimization. A few years later, another conflict over occupation rights emerged. In 1768, the soba Muxixi, from the interior of Luanda, claimed to be the occupant of the lands of Ilamba, where the governor intended to establish a Royal Foundry to tap into steel resources.[15] The manager of the foundry notified Governor Inocêncio de Sousa Coutinho that the soba and the residents of the presidio de Massangano had different interpretations regarding land tenure. The residents of the colonial *presídio* claimed that they had bought the land from the soba, to which the governor replied that this purchase was illegal since sobas could not sell their land. Sousa Coutinho determined that any unoccupied land could be taken until the original owners could present ownership titles.[16] Written titles were unavailable, casting the firstcomers as outsiders in their own territory in a process that predated the European takeover of African lands in most of the African continent by 150 years.[17]

The issue of control over land also settled dynastic disputes. Rulers rushed to prove that their ancestors were the first to arrive and settle in disputed lands, in some cases creating paper trails that proved precedence over claims and questioned the presence of recently arrived groups in their lands. A new Caculo Cacahenda ruler came to power in the 1810s, and as the new sovereign, he requested the Portuguese a new charter (*carta patente*) that recognized his rise to power and his role as landlord. Despite the earlier correspondence between his predecessor and the colonial administration in 1739, the newly inaugurated Dembo Caculo Cacuhenda demanded written evidence of his power.

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[15] For more on Nova Oeiras, see Alfagali, *Ferreiros e fundidores*, 140–74.

[16] IEB/USP, AL-083-003, "Carta de FISC para o coronel Antônio Anselmo Duarte de Siqueira, intendente geral da fábrica do ferro, ressaltando o zelo do intendente no cumprimento do seu ofício," February 3, 1768. I am very grateful to Cryslaine Alfagali who shared her transcription of this document. See also Alfagali, *Ferreiros e fundidores*, 114.

[17] While in Gorée, Cape Colony, Algiers, and Lagos, Africans were displaced from their land during the nineteenth century; in most of the continent, African rulers retained land control until the late nineteenth and early twentieth centuries. This was not the case in the coastal regions of West Central Africa. For more on this, see Marie-Hélène Knight, "Gorée au XVIIIe siècle du sol," *Revue française d'histoire d'outre-mer* 64, no. 234 (1977): 33–54; Sarr, "Land, Power, and Dependency"; Kristin Mann, "Women, Landed Property, and the Accumulation of Wealth in Early Colonial Lagos," *Signs* 16, no. 4 (1991): 682–706; Eugénia Rodrigues, "Women, Land, and Power in the Zambezi Valley of the Eighteenth Century," *African Economic History* 43, no. 1 (2015): 19–56. For regions where the twentieth century represented a major shift in land and property rights, see Lentz, *Land, Mobility, and Belonging in West Africa*.

The governor of Angola, José de Oliveira Barbosa, sent the charter stating that Dembo Sebastião Miguel Francisco Xeque was "the new Dembo and landlord of the Caculo Cacahenda lands, including all of his *macotas* and people, after the resignation of the previous Dembo, Sebastião Francisco Xeque." In 1812, the Angolan governor then confirmed "Dom Sebastião Miguel Franscisco Xeque in the role of Dembo, lord of his lands."[18] Other local rulers rushed to claim dynastic lineage rights and set territorial boundaries that could consolidate claims and inheritance rights for their descendants. In 1821, Chief Caputo Cazombo produced the following record:

I, Caputu CaCazombo, married to D. Macuca a Condo dia Ndala, … had with her a daughter called Canhica CaCaputo, and I had a son called Caque CaCaputu with another woman, when they became [adults] I called my daughter Canhica's uncles: 1. Quitenda quia Caginga uá ginga or ngana Mundongo, 2. Ngola Uini Quitembe, and my father-in-law. About the lands: the co-inheritor, Caque, her brother, starts with the boundary of the land at the end of the river Caculo Cabaça, going up following the river Zenza to the island Nusimo Zenza, following Caputo CaCazumbo's boundary to the border with Ughi Amgombe, there making a circle and continuing along the bank of the river Caluategi to the entry of the Calucala into the Calutuegi, continuing to the source of the Ghonda, following to Quizanga quia Ngandu, continuing with Quianga, the boundary proceeds until the Camaluigi where there is the border with Dembo Quipete, coming down with the Camuluigi to Camienguica, where there is the site Quiebamba, from there to Ccazazala, where brother Caque's land boundary finishes. The other heir [mentioned] above I gave the regalia of the state with which she can govern the land which ends by the river Zenza. At the end I have divided everything between my heirs, except for the papers of the state which after my death I left in Caganga Camugila's possession in the quality of my paternal parent. Finishing, I recommend peace and harmony in order to defend each other as brothers. Banza Zanga do Quipungu, 12th of February 1821. Cross of declarante Caputo cá a Zombo dia nzunaga-diá-Ima-gon, subscribing on the declarant's request: Francisco Paulo da Cruz.[19]

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[18] Tavares and Madeira Santos, *Africa Monumenta*, doc. 18, "Carta Patente de provimento e confirmação de Dom Sebastião Miguel Francisco Cheque no cargo de Dembo e senhoria das terras de Cacuclo Cacahenda," August 11, 1812, pp. 75–76. This appropriation of bureaucracy and paperwork regimes of the colonial order to support indigenous claims happened elsewhere as well. See, for example, Yanna Yannakakis, *The Art of Being In-between: Native Intermediaries, Indian Identity, and Local Rule in Colonial Oaxaca* (Durham, NC: Duke University Press, 2008); Bhavani Raman, "The Duplicity of Paper: Counterfeit, Discretion, and Bureaucratic Authority in Early Colonial Madras," *Comparative Studies in Society & History* 54, no. 2 (2012): 229–50; Karen B. Graubart, "Learning from the Qadi: The Jurisdiction of Local Rule in the Early Colonial Andes," *Hispanic American Historical Review* 95, no. 2 (2015): 195–228.

[19] "Manuscript from Cazombo," cited in Sebestyén, "Legitimation through Landcharters in Ambundo Villages," 372–73.

Firstcomer narratives justified inalienable land rights and are also very similar to oral narratives that legitimate claims elsewhere in Africa. An individual who could prove firstcomer rights based on clearing and occupying land was able to transmit these rights to heirs, in this specific case to Caputo CaCazombo's biological daughter and son. In addition, African rulers such as Caputo CaCazombo employed geographical and political markers to set the limits of their territories, such as rivers or the lands of neighboring chiefs. These accounts served as proofs for their subjects, neighboring rulers, and the colonial administrators of the land and ruling legitimacy to protect the interests of the lineage in the present and in the future. Political and territorial boundaries were not stable and subject to changes, as in the case of rivers changing courses or neighbors migrating to new territories.

Clashes over Land Use and Occupation Rights

The Portuguese Empire prioritized policies for fixing people to land and space. In the 1676 *Regimento do Governo de Angola*, the king of Portugal noted, "You will know about land and who has dominium over them. I have been informed that land grants were distributed to promote agriculture, although many have not been cultivated. The lands not occupied should be distributed to praiseworthy people (*pessoas beneméritas*), with the condition they will cultivate them within five years."[20] Local conceptions of land use and access were clashing with the European notion of control and dominium. The Portuguese administration expected land to be cultivated and its use to be limited to a specific person; it disregarded communal use or land reserved for religious purpose or occupied by spirits. These policies imposed the idea of permanent settlement and the notion that transhumant groups could not enjoy land use and rights, yet transhumance has remained part of Iberian life into the twenty-first century. Africanists have spent decades debating whether African societies had notions of individual ownership or land regime and how wealth was accumulated.[21] Communal use of land, for example, did

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[20] "Regimento do Governo deste Reyno de Angola, 12 de fevereiro de 1676" *Arquivos de Angola*, vol. I (n° 5–6) (1936), Chapter 4, no page number. For more on sedentarization as a colonial project, see Clifton Crais, "Chiefs and Bureaucrats in the Making of Empire: A Drama from the Transkei, South Africa, October 1880," *American Historical Review* 108, no. 4 (2003): 1045–52; James C. Scott, *Seeing like a State: How Certain Schemes to Improve the Human Condition Have Failed* (New Haven, CT: Yale University Press, 2005).

[21] There is a vast scholarship on this topic, see Max Gluckman, *The Ideas in Barotse Jurisprudence* (New Haven, CT: Yale University Press, 1965); Augusto Bastos, "Traços

not indicate general access to use of land since descendants of enslaved people and marginal members of society were excluded from decisions regarding land. Land access was political, and marginalized groups could till the soil but as dependents of more-powerful patrons or clients, very similar to feudal regimes in Europe.

West Central Africans also exercised rights of use and of disposal over movable goods, such as things and cattle, as well as over human beings, known in the historiography as wealth in people.[22] Men and women did not necessarily enjoy the same patterns of land rights and use; however, some historical documents reveal that both West Central African men and women owned cows, chickens, pigs, and sheep as part of their personal wealth, as well as accumulating material goods such as jewelry, baskets, pottery, and farming tools.[23] African rulers and commoners accumulated wealth in movable and immovable things that were considered individual property. Early travelers observed the desire of local rulers to acquire things that were infused with value, that expressed wealth, and that became instruments of power, such as the political elite of Kongo accumulating crucifixes carved in ivory, copper, and brass. They also purchased outfits to project power, mixing imported garments with locally produced clothes, as with the woven *mpu* cap that symbolized power in the Kongo court.[24] Reports from the sixteenth, seventeenth,

geraes sobre a ethnographia do districto de Benguella," *Boletim da Sociedade de Geografia de Lisboa* 26, no. 1 (1908): 5–15; 44–56; Goody, *Death, Property and the Ancestors*; Berry, "Debating the Land"; Sara Berry, *No Condition Is Permanent. The Social Dynamics of Agrarian Change in Sub-Saharan Africa* (Madison, WI: University of Wisconsin Press, 1993); Martin Chanock, *Law, Custom, and Social Order: The Colonial Experience in Malawi and Zambia* (New York: Cambridge University Press, 1985); Rhiannon Stephens, "'Wealth', 'Poverty' and the Question of Conceptual History in Oral Contexts: Uganda from c.1000 CE," in *Doing Conceptual History in Africa*, ed. Axel Fleisch and Rhiannon Stephens (New York: Berghahn, 2016), 21–48.

[22] For more on concept of wealth in people, see Suzanne Miers and Igor Kopytoff, eds., *Slavery in Africa: Historical and Anthropological Perspectives* (Madison, WI: University of Wisconsin Press, 1977), 7–9; Joseph C. Miller, *Way of Death: Merchant Capitalism and the Angolan Slave Trade, 1730-1830* (Madison, WI: University of Wisconsin Press, 1988), 43–52; Jane I. Guyer, "Wealth in People and Self-Realization in Equatorial Africa," *Man* 28, no. 2 (1993): 243–65, https://doi.org/10.2307/2803412; Jane I. Guyer and Samuel M. Eno Belinga, "Wealth in People as Wealth in Knowledge: Accumulation and Composition in Equatorial Africa," *Journal of African History* 36, no. 1 (1995): 91–120; Berry, *No Condition Is Permanent*, 15.

[23] Biblioteca Nacional do Rio de Janeiro (BNRJ), doc. I-28, 28, 29, "Notícias de São Filipe de Benguela e costumes dos gentios habitantes naquele sertão," 10 November 1797. Tribunal da Comarca de Benguela (TCB), "Inventário de Manuel Vidal Cesar," 16 August 1858; "Inventário de Florência Jose do Cadaval," 15 June. 1854

[24] Cécile Fromont, *The Art of Conversion: Christian Visual Culture in the Kingdom of Kongo* (Chapel Hill, NC: University of North Carolina Press, 2014), 99–100 and 109–38; and Green, *A Fistful of Shells*. For more on the demand on luxury items see Jeremy

and eighteenth centuries reveal several currencies operating in West Central Africa, such as *nzimbu*, a variety of clothes, salt, and copper *manillas* [a form of currency], as well as an intense trade in manufactured goods such as baskets and pottery.[25] Things were accumulated, individually owned, and bequeathed to heirs. They had market value and were exchanged for other commodities, allowing men and women to accumulate things over time.[26]

Supposedly, the accumulation of things was intimately related to the recruitment of dependents. The thinking goes like this: Goods created dependency and patron–client relationships, expanding debt and enslavement in what became known as wealth in people. Rulers and elites accumulated things due to their allure and the ability to attract dependents, consolidating a system based on holding the rights to another's labor and reproduction as the main organizing concept among West Central African societies.[27] According to John Thornton, wealth in people was "the preeminent form of private investment and manifestation of private wealth."[28] In the 1970s, Suzanne Miers and Igor Kopytoff proposed that rights-in-persons was "an integral part of African system of kinship and marriage"[29] and shaped all social relationships, creating bonds of rights, obligation, respect, and protection. Following this argument, rights could "be manipulated to increase the number of people in one's kin group, to gather dependents and supporters, and to build up wealth and power."[30] West Central African specialists embraced Miers and Kopytoff's notion of rights-in-persons and pushed it forward as a cornerstone to understanding the social, political, and economic lives of West Central African societies.

Prestholdt, *Domesticating the World: African Consumerism and the Genealogies of Globalization* (Berkeley, CA: University of California Press, 2008).

[25] See Eugenia W. Herbert, *Red Gold of Africa: Copper in Precolonial History and Culture* (Madison, WI: University of Wisconsin Press, 2003); J. Vansina, "Long-Distance Trade-Routes in Central Africa," *The Journal of African History* 3, no. 3 (1962): 375–90; Colleen E. Kriger, "Mapping the History of Cotton Textile Production in Precolonial West Africa," *African Economic History* 33 (205AD): 87–116; Miller, *Way of Death*, 62–81; Phyllis M. Martin, "Power, Cloth and Currency on the Loango Coast," *African Economic History* no. 15 (1986): 1–12; and Jan Hogendorn and Marion Johnson, *The Shell Money of the Slave Trade* (New York: Cambridge University Press, 2003).

[26] Further analysis in Chapters 3 and 7. See also Miller, *Way of Death*, 54–7; Colleen E. Kriger, *Making Money: Life, Death, and Early Modern Trade on Africa's Guinea Coast* (Athens: Ohio University Press, 2017).

[27] Vansina, *Paths in the Rainforests*, 207; Jane I. Guyer, "Wealth in People, Wealth in Things – Introduction," *The Journal of African History* 36, no. 1 (2009): 83–90; Guyer and Belinga, "Wealth in People as Wealth in Knowledge"; Miller, *Way of Death*, 43–52.

[28] John K. Thornton, *Africa and Africans in the Making of the Atlantic World, 1400-1800* (New York: Cambridge University Press, 1998), 87.

[29] Miers and Kopytoff, *Slavery in Africa*, 7.   [30] Miers and Kopytoff, *Slavery in Africa*, 9.

Wealth in people became so central to understanding West Central African societies since it was presumably the system behind the expansion of productivity and control of people. According to Joseph Miller in 1988, "Permanent, real wealth resides in dependents' abstract collective obligations to provide future material goods upon command, in respect, and in prestige."[31] Two years later, Jan Vansina argued that "wealth in goods was still converted into followers."[32] The goods, such as alcohol, gunpowder, or textiles, that rulers demanded in exchange for captives or signatures on vassalage treaties were acquired with the intention of creating a larger pool of dependents as free or enslaved subjects.[33] Historians propose that the main goal of lineage heads was to accumulate people, which explains warfare in the region but also the fact that during the Atlantic slave era male captives were sold to overseas markets while women were retained as captives locally. Anthropologist Wyatt MacGaffey argues that women were the source of wealth in people since they could expand lineages.[34]

Owning people and controlling their labor was important, which explains the broad existence of slavery as an institution in West Central Africa by the time Europeans arrived at the end of the fifteenth century. Thornton also links wealth in people with the fact that landownership did not exist. According to Thornton, "their only recourse was to purchase slaves, which as their personal property could be inherited and could generate wealth for them. They would have no trouble in obtaining land to put these slaves in agricultural production, for African law made land available to whoever would cultivate it, free or slave, as long as no previous cultivator was actively using it."[35] Yet it is important to stress that people faced restrictions as to where they might cultivate land since raids, warfare, and political instability made people vulnerable to slave raiders.[36] Also, as the sobas' complaints from earlier in this chapter

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[31] Miller, *Way of Death*, 52.　　[32] Vansina, *Paths in the Rainforests*, 251.

[33] For more on vassalage treaties and the demand for imported commodities, see Heintze, 'The Angolan Vassal Tributes,' 57–78; and Carvalho, *Sobas e homens do rei*, 82–100.

[34] Wyatt MacGaffey, *Kongo Political Culture: The Conceptual Challenge of the Particular* (Bloomington, IN: Indiana University Press, 2000), 215–16.

[35] Thornton, *Africa and Africans in the Making of the Atlantic World, 1400-1800*, 87.

[36] Roquinaldo Ferreira, "Slaving and Resistance to Slaving in West Central Africa," in *The Cambridge World History of Slavery*, vol. 3 (Cambridge University Press, 2011); Mariana P. Candido, "African Freedom Suits and Portuguese Vassal Status: Legal Mechanisms for Fighting Enslavement in Benguela, Angola, 1800–1830," *Slavery & Abolition* 32, no. 3 (2011): 447–59; and Mariana P. Candido, "The Transatlantic Slave Trade and the Vulnerability of Free Blacks in Benguela, Angola, 1780-1830," in *Atlantic Biographies: Individuals and Peoples in the Atlantic World*, ed. Mark Meuwese and Jeffrey A. Fortin (Leiden: Brill, 2013), 193–210.

reveal, rulers had a clear understanding about land rights, such as the case of Caculo Cacahenda discussed before.

Wealth in people as a concept eventually became a model to explain West Central African societies, even though specialists in other regions of the African continent emphasized the existence of slavery and other forms of dependency as different categories rather than lumping them together with wealth in people.[37] Control of people was part of a system in which people were seen as property that could be bought and sold, yet those who could accumulate people could also acquire things such as alcohol, weapons, and copper manillas. A husband with several wives and children could expand cultivation and produce more food to feed more dependents. In different farming societies, seeds and later the harvested crops were individually owned.[38] As traders amassed dependents, they were socially perceived as wealthier, gained status in the community, and could aspire to political roles. Linda Heywood showed how Ovimbundu traders who profited from long-distance trade displayed their recently acquired wealth by marrying additional wives, expanding their families, acquiring cattle and slaves, and incorporating material possessions associated with Western style, such as wearing pants and shoes.[39] This process inevitably eroded old political elites and led to the rise of merchants as the new political leaders in the highlands of Benguela. Héli Chatelain, a Swiss missionary and linguist who lived in Angola from 1885 to 1889 and returned to Luanda later, stated, "In the absence of metal or paper money to represent capital, a large number of wives, of children, and hence a wide circle of blood-connection and influence, is considered the best investment and most substantial element of wealth." This influenced how later scholars understood property and wealth in West Central Africa as, solely, the accumulation of dependents.[40] Yet, if wealth was solely expressed in the accumulation of

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[37] Paul E. Lovejoy, "Concubinage and the Status of Women Slaves in Early Colonial Northern Nigeria," *The Journal of African History* 29, no. 2 (1988): 245–66; Lovejoy, *Slow Death for Slavery*, 226–33; Mann, *Slavery and the Birth of an African City*, 200–35; James F. Searing, "Aristocrats, Slaves, and Peasants: Power and Dependency in the Wolof States, 1700-1850," *International Journal of African Historical Studies* 21, no. 3 (1988): 475–503; Megan Vaughan, *Creating the Creole Island: Slavery in Eighteenth-Century Mauritius* (Durham: Duke University Press, 2005), 150–51.

[38] For examples from other parts of the continent, see Jane Guyer, "Female Farming in Anthropology and African History," in *Gender at the Crossroads of Knowledge: Feminist Anthropology in the Postmodern Era*, ed. Micaela di Leonardo (Berkeley, CA: University of California Press, 1991), 260–62; Goheen, *Men Own the Fields, Women Own the Crops*.

[39] Linda M. Heywood, *Contested Power in Angola, 1840s to the Present* (Rochester, NY: University of Rochester Press, 2000), 16–18.

[40] Héli Chatelain, *Folk-Tales of Angola Fifty Tales, with Ki-Mbundu Text, Literal English Translation, Introduction, and Notes* (Boston, MA: The American Folklore Society by

dependents, it is difficult to understand the economic motivations of rulers to sell their most prized investment.

It is problematic to mix slavery with other forms of control of people, such as marriage, patronage, parenthood, overlordship, and so on, under the umbrella of wealth in people because not all types of relationships necessarily share the same coercion and employ violence as in slavery.[41] Wealth in people and slavery were important forms of accumulation in West Central Africa, yet they are not so different from how planters in Brazil, Cuba, or Jamaica, who also invested in enslaved people, enriched themselves. West Central Africans produced things and accumulated wealth in goods before contact with Europeans and during the centuries of the transatlantic slave trade and the Portuguese presence in the region, as evidenced by the ivory carvings and masks displayed in museums around the world.[42] Thus, wealth in people and wealth in things were not different but part of systems of accumulation that had gone through transformations for centuries, in part due to their connection to the global markets.

Changes Related to Possession and Ownership

It is only with the European liberal revolutions of the eighteenth century that the notion of land as belonging to an individual, rather than a collective possession, prevailed.[43] That is, the concept of individual property has a history. In Europe or in Africa, before the consolidation of liberalism in the nineteenth century, land was held and not owned. For England and France, it was during the eighteenth century that small landholders lost rights over communal use of land and exclusive property rights to land emerged.[44] In Portugal and Spain, it was during the nineteenth century that land was centralized on single owners and common rights disappeared. Land acquired an economic aspect related

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Houghton Mifflin, 1894), 9. For more on Chatelain, see Gerald Moser, "Héli Chatelain: Pioneer of a National Language and Literature for Angola," *Research in African Languages* 14, no. 4 (1983): 516–37.

[41] Mann, *Slavery and the Birth of an African City*, 3–4; Paul E. Lovejoy, *Transformations in Slavery* (New York: Cambridge University Press, 2000), 4–22.

[42] Jane I. Guyer made this point in her 'Wealth in People and Self-Realization in Equatorial Africa', *Man* 28, no. 2 (1993), 243–65. For the goods produced in West Central Africa, see *Portugal e o mundo nos séculos XVI e XVII: Encompassing the Globe* (Lisbon: Instituto dos Museus e da Conservação, 2009), 145–60.

[43] Peter Garnsey, *Thinking about Property: From Antiquity to the Age of Revolution* (New York, Cambridge: Cambridge University Press, 2007), 182–84.

[44] E. P. Thompson, *The Making of the English Working Class* (New York: Pantheon Books, 1964), 215–23.

to production and its value as an asset, a commodity that could be rented, bequeathed, or mortgaged. Yet land also had, and has, social and political values that cannot be easily measured, and its value is associated with one's relationship with another. The economic value of land rests on individuals enjoying rights to it on the principle of occupation. We can argue that "property is theft" as defined by the nineteenth-century French philosopher Pierre-Joseph Proudhon since it assumes that not everyone enjoys the same rights.[45] But it is more than this. As defined by Sara Berry, property rights were "negotiable and contested – shaped and reshaped over time by multiple, sometimes conflicting forces."[46] In West Central Africa, as well as in Portugal and other European monarchies before the nineteenth century, property claims over land, people, and things were based and shaped by notions of kinship, community membership, and context. The difference between the public and the private were blurred, and occupation and use rights were never stable, with rulers keeping land in tenure for ancestor, and subjects securing occupation recognitions.[47]

During the process of conquest in the fifteenth and sixteenth centuries, Portuguese explorers and the monarchy employed the principle of territorial occupation and subjugation to justify claims of sovereignty, classifying some use of land as legitimate, such as cultivation or mining, while dismissing others, such as burial rights or spirit occupation, as unused land or empty territory. However, it was necessary to recognize the rights of the local population to the land and its use due to the limited power of the European invaders as well as the lack of an idea, in Europe, of individual property rights. In the context of expansion and conquest, European empires made claims over lands and their people, the concept of dominium, but did not necessarily treat land as belonging to an individual. In the case of Angola, the idea was that unlike in the Kingdom of Kongo where a monarch could clearly be identified as the

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[45] Pierre Joseph Proudhon, *What Is Property? An Inquiry into the Principle of Right and of Government* (Princeton, MA: B. R. Tucker, 1876), Chapter 1.

[46] Berry, *Chiefs Know Their Boundaries*, xxvi.

[47] Berry, "Debating the Land"; Pierre Bourdieu and Abdelmalek Sayad, "Colonial Rule and Cultural Sabir," *Ethnography* 5, no. 4 (2004): 449–51; Saliha Belmessous, "Introduction: The Problem of Indigenous Claim Making in Colonial History," in *Native Claims: Indigenous Law against Empire, 1500-1920*, ed. Saliha Belmessous (New York: Oxford University Press, 2012), 3–18; Goheen, *Men Own the Fields, Women Own the Crops*, 108–12. For an important discussion on the changing meaning of wealth, see Stephens, "'Wealth', Poverty and the Question of Conceptual History." See also Herzog, *Frontiers of Possession*; Mariana Armond Dias Paes, "Terras em contenda: Circulação e produção de normatividades em conflitos agrários no Brasil império," *Revista da Faculdade de Direito UFMG* 74 (2019): 379–406.

legitimate occupant of the territory, in the regions north and south of the Kwanza River the land was classified unused and unoccupied. It was thus the moral duty of Europeans to conquer and colonize it, similar to the debate regarding land occupation in the colony of Brazil, where the indigenous population was also seen as incapable of making the land productive and profitable.[48]

Different conceptions of sovereignty and jurisdiction were at the center of these interactions. According to Thornton, "slaves were the only form of private, revenue-producing property recognized in African law. By contrast, in European legal systems, land was the primary form of private, revenue-producing property, and slavery was relatively minor."[49] It must be noted, however, that even in several parts of Europe, particularly in Portugal, land was held, not necessarily individually owned, before the nineteenth century – thus, European and African land regimes were closer than nineteenth- and twentieth-century jurists and colonial officers projected into the past. According to the interpretation of these jurists, private property had always existed and was a hegemonic concept in European law.[50] In contrast, land on the African continent was abundant, labor was scarce, and tenure regimes were unknown. Primary sources, however, reveal that African rulers exercised dominium over their territory, employed their power to control people, free or enslaved, in order to clear and cultivate the land, and presented indigenous claims. There is plenty of evidence that demonstrates the clashes of different conceptions of land use, access, and tenure between African rulers and

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[48] I am very grateful to Mariana Dias Paes who helped me to make the links between land seizure in West Central Africa and Portuguese America. See Dias Paes, "Escravos e terras," 48–51. See also Anthony Pagden, "Law, Colonization, Legitimation, and the European Background," in *The Cambridge History of Law in America*, ed. Michael Grossberg et al. (Cambridge: Cambridge University Press), 1–31; and Eugénia Rodrigues, *Portugueses e africanos nos Rios de Sena. Os prazos da coroa em Moçambique nos séculos XVII e XVIII* (Lisbon: Imprensa Nacional-Casa da Moeda, 2014), 355–62 and 551–80. See also Toby Green, "Baculamento or Encomienda? Legal Pluralisms and the Contestation of Power in the Pan-Atlantic World of the Sixteen and Seventeenth Centuries," *Journal of Global Slavery* 2 (2017): 310–36.

[49] Thornton, *Africa and Africans in the Making of the Atlantic World, 1400-1800*, 74. Valentim Alexandre and Jill Dias, *O Império africano* (Lisbon: Estampa, 1998), 330–334; Lauren A Benton, *Law and Colonial Cultures Legal Regimes in World History, 1400-1900* (New York: Cambridge University Press, 2002), 50–2; and Miller, *Way of Death*, 40–54 and 115–26.

[50] António Gil, *Considerações sobre alguns pontos mais importantes da moral religiosa e sistema de jurisprudência dos pretos do continente da África Ocidental Portuguesa além do Equador* (Lisbon: Tipografia da Academia, 1854); Lopo Vaz de Sampaio e Melo, *Regime da propriedade indígena, separata da "Revista Portugueza Colonial e Marítima"* (Lisbon: Ferin Editora, 1910). For more on this, see Congost, "Property Rights and Historical Analysis."

Portuguese conquistadores, especially in the seventeenth and early eighteenth centuries when European military and demographic power was limited. In theory, however, the conquered land was under the domain of the Portuguese Crown, which claimed rights over taxation and distribution, even if it was difficult to implement it.[51]

In 1571, a Portuguese royal decree named explorer Paulo Dias de Novais as representative of the interests of the Catholic Monarchy in its attempt to expand and conquer the world. A nobleman, a *fidalgo*, he was instructed to "submit and conquer the Kingdom of Angola, [to impose] Catholic worship and celebrate the Holy Catholic Faith and enact the Holy Gospel."[52] The decree authorized Dias de Novais to conquer land along the coast and in the interior, and whatever he encountered – land, people, or mineral wealth – would be considered part of the land grants (*sesmarias*) issued by the Portuguese Crown in the form of hereditary possession. The language employed is very similar to the land grants issued to the *capitão donatários* in Brazil during the same time.[53] The land that came under the management of Paulo Dias de Novais was occupied land. Seven settled groups lived on the island of Luanda. Without their knowledge or consultation, they were assigned as the property of Paulo Dias de Novais in 1571. They did not accept these arbitrary decisions, and decades of conflict followed Novais' arrival, known in the Angolan historiography as *guerras de conquistas*. These were in fact conflicts of jurisdiction sparked by the refusal of local chiefs to recognize any Portuguese dominium rights over land and people. Luanda was not

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[51] For more on this, see Pagden, "Law, Colonization, Legitimation, and the European Background," 1; Edmundo O'Gorman, *La invención de América*, 88; Lauren Benton, "Making Order out of Trouble: Jurisdictional Politics in the Spanish Colonial Borderlands," *Law & Social Inquiry* 26, no. 2 (2001): 373–401; Graubart, "Shifting Landscape," 65–68; Caetano Gonçalves, "O regime das terras e as reservas indígenas na colonização portuguesa," *Boletim Geral das Colônias* 2, no. 13 (1926): 26–27; Aida Freudenthal, "Benguela – da feitoria à cidade colonial," *Fontes & Estudos* 6–7 (2011): 197–229; James C. Scott, John Tehranian, and Jeremy Mathias, "The Production of Legal Identities Proper to States: The Case of the Permanent Family Surname," *Comparative Studies in Society and History* 44, no. 1 (2002): 4–44.

[52] "Carta de doação a Paulo Dias de Novais," in Alfredo de Felner, *Angola. Apontamentos sobre a colonização dos planaltos e litoral do Sul de Angola. Extraídos de documentos históricos* (Lisboa: Agência-Geral do Ultramar, 1940), 407. See also Ilidio do Amaral, *O consulado de Paulo Dias de Novais: Angola no último quartel do século XVI e primeiro do século XVII* (Lisbon: Ministério da Ciência e da Tecnologia/ Instituto de Investigação Científica Tropical, 2000) 54–72

[53] Carmen Margarida Oliveira Alveal, "Converting Land into Property in the Portuguese Atlantic World, 16th–18th Century" (Ph.D., Johns Hopkins University, 2008); Rafael Chambouleyron, "Plantações, sesmarias e vilas. Uma reflexão sobre a ocupação da Amazônia seiscentista," *Nuevo Mundo Mundos Nuevos.*, 2006; Maria Sarita Mota, "Sesmarias e propriedade titulada da terra: o individualismo agrário na América Portuguesa," *Sæculum – Revista de História* 26, no. 1 (2012): 29–45.

empty land, and its seizure by Portugal was the product of territorial conquest and exclusion of the indigenous inhabitants.[54]

Novais distributed his land grant to fellow conquistadores, most of them noblemen, and the Society of Jesus received land grants in the form of *sesmarias* in recognition of their service and collaboration with the conquest. In the language of the time, the *sesmeiros*, the grantees, became *amos* or masters, a term used for European kings and princes but which was also used for new feudatories in the Kingdom of Angola, the imaginary space created by the Portuguese empire. Masters held control over the land and the people who occupied it, with the ability to enslave, exploit, and even sell people. Although the Crown could cancel the donation in the case of ill practice, the grantees, the *capitão donatários*, enjoyed full authority and power over the lands granted to them. These land grants also became a hereditary possession that excluded any claims that native chiefs and their subjects could have over their properties. In fact, African rulers were distributed among conquistadores and the Catholic clergy as part of the *sesmarias* and could be put to work. In many ways, this territorial occupation and political subjugation were part of the same process of establishing dominium claims at the expense of the native population.[55]

Among many obligations, African authorities had to pay taxes to the new landowners, in most cases in the form of enslaved people. In 1590, for example, the tributes that the Society of Jesuits collected from local chiefs and the population over "their" lands totaled at least 300 captives of war.[56] Portuguese conquistadores blurred the lines between land grants and rights over land occupants, claiming control over people. The *amo*, master, Garcia Mendes Castelo Branco requested from the Portuguese Crown "the soba [the ruler] Caculo Quehacango, with all his *canda* (his clan)."[57] Due to his land grants, Castelo Branco was able to

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[54] For a different interpretation, see Catarina Madeira Santos, "Luanda: A Colonial City between Africa and the Atlantic, Seventeenth and Eighteenth Century," in *Portuguese Colonial Cities in the Early Modern World*, ed. Liam M. Brockey (New York, NY: Ashgate Publishing, 2008), 249–50.

[55] Bárbara Direito, "African Access to Land in Early Twentieth Century Portuguese Colonial Thought," in *Property Rights, Land and Territory in the European Overseas Empires*, ed. José Vicente Serrão et al. (Lisbon: CEHC-IUL, 2014), 256–63, http://hdl .handle.net/10071/2718.

[56] Heintze, *Angola nos séculos XVI e XVII*, 440.

[57] Caculo Quehacango was probably Caculo Cacahenda. See David Wheat, "Garcia Mendes Castelo Branco, Fidalgo de Angola y Mercaders de Esclavos en Veracruz y el Caribe a Principios del siglo XVII," in *Debates Históricos Contemporáneos: Africanos y Afrodescendientes en México y Centroamérica*, ed. María Elisa Velázquez (Mexico City: INAH, 2011), 90. For more on Caculo Cacahenda, see *Almanak statistico da Provincia d'Angola e suas dependencias para o anno de 1852* (Luanda: Imprensa do Governo, 1851),

organize at least three slave voyages between Luanda and the ports of Cartagena de Índias, Veracruz, and Jamaica between 1599 and 1618, transporting, in a single voyage in 1599, more than 500 enslaved Africans to Cartagena de Índias. Many of these enslaved people were subjects or enslaved by ruler Caculo Cacahenda, discussed earlier. By the end of the sixteenth century, land grants and the slave trade were intertwined, which favored the consolidation of the *amos* as the largest slave traders of Angola.[58]

The land concessions eventually led to disputes between the conquistadores, the Jesuits, and the administrators, who saw the rise of the *amos* as slave traders as a threat to the Crown's control over trade. Under the unification of the Iberian Crown, the system of *amos* was eliminated and the sobas were put under the direct control of the Crown.[59] In the regulation of the new governor of Angola, D. Manuel Pereira Forjaz, the King of Portugal stated on March 16, 1607, that "sobas suffered extortion and abuses, including enslavement, at the hands of the *amos*, which was against justice, law, and what was convenient to the services of God and the Portuguese Crown, which impairs the good will and the piece in the land … sobas deserve to be treated with respect and the same liberty enjoyed by other vassals."[60] The comparison between sobas' and vassals' rights led to the creation of a new juridical space. The *sesmaria* model was abandoned, in part due to the limitation of the Portuguese Crown in establishing territorial claims beyond Luanda. Eventually, the administrative efforts focused on controlling and taxing the trade in human beings to address the demand in the Americas for coerced labor.

Dominium also represented control over any mineral resources in the territory. In 1666, after the signature of the vassal treaty between the Portuguese Crown and the ruler of Wandu, the assumption was that the soba had lost control over the copper mines in his territories, a clear indication that his legal claims over his territory's mineral resources were terminated.[61] In a similar case, the vassal treaty of 1682 forced the ruler of Kakonda to allow the settlement of Portuguese officers and the

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95; Ana Paula Tavares and Catarina Madeira Santos, "Fontes escritas africanas para a história de Angola," in *Africae Monumenta. A apropriação da escrita pelos africanos*, vol. 1 (Lisbon: Instituto de Investigação Científica Tropical, 2002), 471–509.

[58] For more on how this system was enforced and how rulers and subjects resisted, see Beatrix Heintze, "The Angolan Vassal Tributes of the Seventeenth Century," *Revista de História Económica e Social* 6 (1980): 62; Heintze, *Angola nos séculos XVI e XVII*, 339–40.

[59] Heintze, *Angola nos séculos XVI e XVII*, 441.

[60] Amaral, *Consulado de Paulo Dias de Novais*, 243.

[61] Heintze, *Angola nos séculos XVI e XVII*, 462.

construction of a fortress in his territory.[62] So the debate over occupation and jurisdiction could not have been initiated in the nineteenth century. In fact, when changes over property rights occurred in the nineteenth century, they happened in a context of intense disputes and negotiations going back to the sixteenth century in what constituted the colony of Angola, in West Central Africa.[63]

The lack of recognition of the African land-tenure system was a constant theme, going back to *Carta de doação* of Paulo Dias de Novais by the end of the sixteenth century. However, as Assan Saar notes, "the generalization about the absence of land ownership in Africa is risky."[64] The fact that Europeans did not recognize African claims or co-opt indigenous legal systems is the result of colonialism that naturalizes occupation and expropriation of indigenous peoples. Before the nineteenth century, African rulers and their subjects who showed loyalty and established alliances with the Portuguese conquerors were recompensed with the recognition of their territorial claims, although they were required to open their territories to traders and Catholic priests and pay tributes to the Portuguese Crown, among other obligations.[65] Yet local notions of land occupation and tenure were far from guaranteed under colonial rule. Although the colonial administration recognized sobas' territories and their control over resources, foreign settler pressure to expropriate land undermined their jurisdiction claims and allowed expropriation of land during the nineteenth century.[66]

Land was initially perceived as abundant and, after the initial land removals around Luanda and Benguela in the late sixteenth and early seventeenth centuries, the Portuguese empire focused its economic interests on the transatlantic slave trade. The removal of people from the

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[62] Rosa Cruz e Silva, "The Saga of Kakonda and Kilengues: Relations between Benguela and Its Interior, 1791-1796," in *Enslaving Connections: Changing Cultures of Africa and Brazil during the Era of the Slavery*, ed. José C. Curto and Paul E. Lovejoy (Amherst, MA: Humanity Books, 2004), 245–59.

[63] Amaral, *Consulado de Paulo Dias de Novais*, 117 and 226; Heintze, *Angola nos séculos XVI e XVII*, 253; 7

[64] Sarr, *Islam, Power, and Dependency*, 5.

[65] For more on the disregard and adoption of indigenous legal systems, see Green, "Baculamento or Encomienda?" See also Beatrix Heintze, "Luso-African Feudalism in Angola? The Vassal Treaties of the 16th to the 18th Century," *Separata da Revista Portuguesa de História* 18 (1980): 111–31; Heintze, "Angolan Vassal Tributes"; Roquinaldo Ferreira, *Cross-Cultural Exchange in the Atlantic World: Angola and Brazil during the Era of the Slave Trade* (New York: Cambridge University Press, 2012), 52–85.

[66] Freudenthal, "Questão da terra em Angola," 22–23; Freudenthal, *Arimos e fazendas*, 140–141; David Birmingham, "The Coffee Barons of Cazengo," *The Journal of African History* 19, no. 4 (1978): 523–538; Cristina Nogueira da Silva, *Constitucionalismo e império: a cidadania no ultramar português* (Lisbon: Almedina, 2009), 305–30. Similar situations happened in the Americas; see Graubart, "Shifting Landscape," 70–73.

territory became a privileged activity, which brought about depopulation and increased the availability of land above and beyond its already perceived abundance. However, there were concerns related to learning about the territory and its people. The 1676 Regulation of the Government of Angola, for example, suggested that governors should "inquire about all land grants, who oversaw the distribution, who had the power to grant land, and who owned it."[67] The concern was to verify whether the granted lands were cultivated, not necessarily to determine the legitimate occupants or who had rights over land. In the case of disputes, whoever was able to present a title would be recognized as the landowner, a system that clearly prioritized a single form of land rights, the enclosed model in which land was owned. In the case of Ilamba and Lumbo, where the Portuguese Crown intended to establish steel production, the Royal Foundry of Nova Oeiras, this decision led to the dismissal of the local Mbundu population, who were spread across several different polities, as the legitimate occupiers and colonial occupation of the territory.[68] Land-control struggles were constant, and it was through occupation and dispossession that colonial administrative centers were created along the coast, such as Luanda and Benguela, as well as in the interior, the inland *presídios*, casting the conquered as outsiders in their own land.

In the second half of the eighteenth century, efforts were made by Portuguese officials to identify territories and their occupants, as well as the way property and land tenure operated in an attempt to increase governability.[69] In the context of the Enlightenment and territorial expansion, and the enumeration of population, maps, residential lists, African states, and their political organizations spread in the late

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[67] AHU, Códice 544, fl. 8v. "Regimento do Governo do Reino de Angola dado em Lisboa," February 12, 1676. I am very grateful to Crislayne Alfagalli who shared her transcription of this document with me.

[68] Crislayne Alfagali, *Ferreiros e fundidores da Ilamba: uma história social da fabricação do ferro e da Real Fábrica de Nova Oeiras (Angola, segunda metade do século XVIII)* (Luanda: Fundação Agostinho Neto, 2018) is a careful detailed study of the *Fábrica de Nova Oeiras* and African knowledge over steel production. For more on expropriating knowledge, see Walter D. Mignolo, "Epistemic Disobedience, Independent Thought and Decolonial Freedom," *Theory, Culture & Society* 26, no. 7–8 (2009): 159–81.

[69] Scott, *Seeing like a State*; Sherwin K Bryant, *Rivers of Gold, Lives of Bondage: Governing through Slavery in Colonial Quito* (Chapel Hill, NC: University of North Carolina Pr, 2013). See also Catarina Madeira Santos, "Entre deux droits: Les Lumières en Angola (1750-v. 1800)," *Annales. Histoire, Sciences Sociales 60*, no. 4 (2007): 817–48; Catarina Madeira Santos, "Administrative Knowledge in a Colonial Context: Angola in the Eighteenth Century," *The British Journal for the History of Science* 43, no. 4 (2010): 539–556; and Mariana P. Candido, *Fronteras de esclavización: Esclavitud, comercio e identidad en Benguela, 1780-1850* (Mexico City: El Colegio de Mexico Press, 2011).

eighteenth century in efforts to increase colonial knowledge about the African population and how ownership rights operated. In 1750, the colonial administration organized an inventory of the local authorities of the district of Calumbo, identified as *sobas*, *quilambas*, and *quimbares*, increasing the hands each ruler had to provide as labor to the *Fábrica de Ferro de Novo Belém*, the Royal Foundry of Novo Belém, as part of their taxation. According to the list, sixty-eight rulers were able to provide from 3 to 1,000 dependents who could work for the benefit of the Portuguese Crown. In addition to labor, the rulers' taxation also included a percentage of the crops they cultivated; some also had to provide animals such as goats, chickens, or pigs. Sobas Gola Quimbi Antonio da Silva and Caciata Cacavungu, who had salt mines in their territories, were required to pay their taxes with salt.[70]

The efforts to count and control did not necessarily lead to collection of information about existing land regimes. For example, in 1772, Governor Antonio de Lencastro ordered the demarcation, description, and inventory of the property belonging to all Black and white subjects in the colony of Angola, in alphabetical order.[71] Along the coast and in the inland *presídios*, colonial officers enumerated residents, the number of inhabitants in each household, as well as the production of crops and cattle in a clear process of land enclosure under the rubric of better administration and expansion of agriculture.[72] The lists are meticulous, providing information on the location of each household, their type of construction (one or two floors, bricks, *pau a pique*, or thatched roof), and the number of free and enslaved dependents. It is unclear whether the house or the piece of land was perceived as personal property, but the fact is that some of the lists include information such as "houses that

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[70] IHGB, DL81,02.19, "Inventario dos Sovas, Quilambas e Quimbares do Distrito do Calumbo que servem no serviço das Fabricas de Ferro de Novo Belém e Nova Oeiras donde se mandarão anexar todos por ordem do Ilm.o e Exm.o Snr. General, sobre os Dízimos que pagavam antes de serem isentos, e pelo que Regularão na Regulação que se fez, e o número de Filhos capazes, que cada um tem, e os que dão por Mês," 1750.

[71] BNL, Res. Cód. 8744, "Carta circular," fl. 239-239v., May 1, 1772.

[72] Among others, see IHGB, DL32,02.02, "Relação de Manuel José de Silveira Teixeira sobre os moradores da cidade de São Felipe de Benguela separados por raça, idade, emprego, título de habitação, ofícios mecânicos e quantos mestres e aprendizes existem, 1789;" IHGB, DL32,02.10, "Relação de moradores do Distrito das Vilas de Icau, Muquiama e Quilengues contendo nome, idade, estado, emprego, gados, petrechos de sua majestade, órfãos, sobas e seu território que reconhecem e tributam vassalagem, 1789;" IHGB, DL32,02.01, "Relação dos sobas potentados, souvetas seus vassalos e sobas agregados pelos nomes das suas terras, que tem na capitania de Benguela. Dividindo em sete partes e províncias para melhor conhecimento da capitania: 1º. província da cidade de Benguela; 2º. província de Quilengues; 3º. província do Presídio de Caconda; 4º. província do Ambo; 5º. província de Galangue; 6º. província de Bailundo e 7º. província do Bié," 1798.

belonged to Joaquim José de Andrade," or "owned by the tavern keeper Amaro."[73] This suggests efforts to generalize a Portuguese land tenure system built around restrictions. It privileged smallholder plots where agriculture was practiced. Decades later, many of these residents put their land plots up for sale, demonstrating that the land had been privatized and commodified.[74]

At the borderlands outside of Portuguese jurisdiction, officers listed the names and sizes of African states and made efforts to delimit territories, incorporating local notions of fluid frontiers and mobile capitals. Expressions such as "land of Galangues," "soba Canina's lands," and "territories of Ginga and Cassange" in official documents (as well as in Map I.2 in the Introduction) reveal how Portuguese officers had limited knowledge of the territory, recognized African jurisdiction over their countries, and incorporated local practices of using trees, rocks, and rivers as political limits in the colonial space.[75] It also suggests that these lands were not under colonial control but under the jurisdiction of African rulers, as their dominium, and that the administration recognized them as such.

Vague notions of lands and territories accord with how the landscape was mapped: The local power struggles between African rulers, their neighbors, and the colonial presence created an imaginary political space for Europeans. In 1798, an unidentified colonial officer produced a report about the land possession of the soba of Humbe and his disputes with his neighbors. In this rich report, there is a clear recognition of Humbe's territory and his rights over his land and people. According to the account, "previously, the sobas of Humbe, Kiluanji, Mutahucamba, Kilombo Kiacatubia, Bango A Kitamba, Bumba Danla, Gonguembo, and Mussuço Hembo were vassals of Queen Njinga, who later came under the control of the [Portuguese] Majesty. They had and have their

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[73] IHGB, DL32,02.03, "Relação de José Caetano Carneiro, primeiro tenente, da metade dos moradores da parte do norte da cidade de São Felipe de Benguela, de ambos os sexos, cor, escravos sem nomes, empregos e estados. Relação de senzalas às quais pertencem," November 29, 1797, fl. 21.

[74] Arquivo Nacional de Angola (ANA), Cod. 7182, fl. 137, N. 1445, 20 March 1829; ANA, cx. 3340, Dombe Grande, doc. 53, Letter from Chefe do Dombe Grande [Francisco José Brito] and Governor of Benguela, April 20, 1865; Boletim Oficial do Governo Geral da Província de Angola (BOGGPA), n. 32, 11 August 1866, p. 315;

[75] AHU, Angola, cx. 70, doc. 5, February 24, 1785; AHU, Angola, cx. 70, doc. 43, August 7, 1785; AHU, Angola, cx. 72, doc. 14, March 26, 1787. For more about land as country, see Ana Lúcia Sá, "The Concept of 'Land' in Bioko: 'Land as Property' and 'Land as Country,'" in *Doing Conceptual History in Africa*, ed. Axel Fleisch and Rhiannon Stephens (New York: Berghahn, 2016), 138–61; Vincent Hiribarren, *A History of Borno: Trans-Saharan African Empire to Failing Nigerian State* (New York: Oxford University Press, 2017).

lands from the south to the north, crossed by the Kwanza River, until the shores of the river Lombige."[76] Ruler Mussuço began to slowly settle his people within the limits of Humbe, sending *macotas* (the heads of lineages and the ruler's advisers) to establish themselves there. They later tried to claim Humbe's territories as their own "without having rights over them." The account continues, "In the lands of the Soba Mutta Hucamba, between the rivers mentioned earlier, the intrusion of macotas from Dembo Caculo is not allowed."

In the lands of the soba Quilombo Quiacatubia, there was an alliance with smaller rulers, the *sobetas*, regarding who could settle. Afraid of what the Dembo Caculo Cacahenda intended, the soba of Humbo then "under a strange way against the laws of the [Portuguese] Majesty and the law of his state, usurped most of his lands, lands that [Humbo] owns since the establishment of his state, securing possession in time immemorial by his ancestors as the natural lords of their land. [The soba] cannot accept that the Dembo [Caculo Cacahenda], who is unable to secure access to the land through justice (or the law), unfairly removed [Humbe and his people] from the land due to the fact that [Dembo] is [militarily] stronger and more powerful." The soba requested the King of Portugal to "order the Dembo Caculo Cacahenda to stay in his lands, and to not usurp the land of others."[77] This account was probably produced by the ruler of Humbe and stresses his conception of land use rights, and his role as the legitimate occupant transmitted through his ancestors. In his own words, he was the natural lord of the communal land, with usage and tenure rights based in generations of remembered history. Yet the colonial archive does not recognize the authorship of the letter or even how colonial officers apprehended local knowledge to justify land expropriation.[78] Humbo, located south of the Kwanza River but north of Benguela and east of Benguela-Velha, was at the borderland of the Portuguese empire, a clear space in which rulers could claim dominium and negotiate them with the colonial powers and neighboring leaders who aspired to occupy the land and claim rights. As the ruler said, conflicts could arise: "If he does not secure the restitution of his land, there will be war between him and his allies and the Dembo

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[76] IHGB, DL81,02.31, "Comunicação para o Rei de Portugal sobre a possessão das terras dos Sobas do Humbo, e as disputas com outros povos," 1798.

[77] IHGB, DL81,02.31, 1798.

[78] For similar cases, see Hanson, *Landed Obligation*, 41–53. For more on the importance of decolonizing the archive and the past, see Mignolo, "Epistemic Disobedience, Independent Thought and Decolonial Freedom."

Caculo Cacahenda, with death, violence, and cruelty, that your excellency can avoid among your vassals."[79]

Before the nineteenth-century enclosure, conflicts over land use and occupation relied on customs and practice drawn from de facto occupation, not necessarily recognized as legitimate by all the actors involved. The competition for land increased in the nineteenth century with the end of slave exports and the establishment of the plantation economy, as well as the consolidation of the idea in Europe that "property is the most absolute way of possessing things."[80] In this moment of transformation, legislation was established to guarantee de jure rights, that is, officially sanctioned. The process in which de facto rights are transformed into de jure rights was and is inherently political and privileges the claims of those in power. The debates over land use before the nineteenth century centered on the negotiations between law, colonization, and the claims for sovereignty that both Portuguese and local rulers employed.

Conclusion

Contested land regimes, natural resources, and wealth accumulation have been the norm in West Central African history. Before and even during Portuguese colonialism, rulers and commoners collected material goods and invested in items associated with expanding networks of free and enslaved dependents. Conflict over land use and occupation rights predates the nineteenth century, and different actors clashed over rights and claims. Firstcomers, latecomers, and Europeans disputed rights over land, cattle, and people due to their different and competing views regarding legitimate actors of conquest, possession, use, and control.

Ideas about accumulation, wealth, and rights underwent profound changes over three centuries. Since the early seventeenth century, local rulers and colonial officers contested and negotiated rights, jurisdiction, and control. Competing frameworks for origins, access, and occupation rights existed in the pre-nineteenth-century period. However, the consolidation of the liberal idea of individual rights over land and people in the nineteenth century privileged the notion that things and people belong to an individual rather than the possibility of shared communal use as was the case in most of the African continent. The fact that African societies did not dispose of or sell land, or that land was not commodified, does not indicate the absence of the idea of use and occupation

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[79] IHGB, DL81,02.31, 1798.
[80] Congost, "Property Rights and Historical Analysis," 88; Garnsey, *Thinking about Property*, 169–73. See also Dias Paes, "Escravos e terras," 7–10.

rights. Scholars' assumption that things belong to an individual, or even to a state, reinforces the intrinsically violent aspect of asserting rights: If there is a recognized right over land or a person, it is at the expense of someone else who cannot enjoy this privilege.

One of the challenges of understanding local practices of wealth and rights is the paucity of records privileging how West Central African societies, among them the Ndombes, Kilengues, Kakonda, Bailundu, and Bienos, exercised these rights. By the time evidence about customary law was recorded in the late nineteenth and early twentieth centuries, local societies had been transformed by three hundred years of conquest and colonialism. Scholars repeated the idea that West Central Africans lacked property rights or notions of individual ownership produced by colonial bureaucrats, without questioning how this colonial knowledge was created and for what purpose. Scholars also embraced the notion, introduced by the liberal revolutions in the eighteenth century, that land can be bought and sold and treated as a commodity. Yet the evidence available in colonial archives reveals that African rulers claimed jurisdiction and occupation rights, and they exercised land tenure.

Rights over land and people, in many ways the consolidation of individual ownership over communal rights, are not a stable category but the result of an intense negotiation among social groups and between elites and the lower classes. Historicizing the notion of property is central to any understanding of knowledge production about the past. Evidence, observations, and history itself have changed over time. Assumptions that landed property is a mark of a superior system must be decentered. The risk is falling into a pattern of acclaiming the existence of ownership notions and rights before the nineteenth century as something positive, as if owning land indicates a rational economic system. Ownership of land, of people, in the end reveals that the history of accumulation corresponds with dispossession and the exacerbation of inequalities.