

## Article

# Interwoven Landscapes: Gender and Land in the Kafue Flats, Zambia

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**Abstract:** This paper examines changes in formal and informal land access rules for women in the Kafue Flats of southern Zambia and identifies alternatives to land privatization. In rural African communities dependent on subsistence production, access to common pool resources (CPRs) such as fisheries, wildlife or wild fruits made an important contribution to household food and nutritional security. In the pre-colonial period, the use of agricultural land and associated CPRs was governed by local institutions of common property, characterized by more-than-human relationships embedded in the local animistic ontology. To examine how women's pre-colonial access rights were increasingly disregarded in the wake of new statutory laws, we analyzed qualitative ethnographic data on livelihoods and food security from three time periods between 2002 and 2018. The findings show how customary law land tenure has remained important, despite being complemented by statutory law designed to also protect women's property rights. We conclude that women's customary access rights to land and CPRs must be taken into account in the drafting of formal legislation, as suggested by successful examples of bottom-up institution building in other regions.

**Keywords:** feminist political ecology; land use change; institutional change; Zambia

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## 1. Introduction

In the early twentieth century, colonial administrators Smith and Dale studied, in their colonial quest for knowledge, the land use regimes and livelihood systems of the Ila-speaking people of the Kafue Flats in southern Zambia. At the beginning of their chapter on property they emphasized that women could, under certain circumstances, own property in their own right: “*One of the features of the Ba-ila laws is the recognition of the ownership of property by women*” [1] p. 380. They write of Kasale, a famous and respected woman “*known far and wide for her wealth*” who died in 1914 at an advanced age. She had managed to acquire land and cattle after becoming a widow. Smith and Dale wrote that unmarried or widowed women who, like Kasale, were able to acquire “*cattle and slaves,*” both of which increased their wealth, could become powerful: “[*She*] *may eventually have a village of her own and rank as a chief*” [1]. As an early colonial narrative this contradicts the later colonial and postcolonial discourse about women's landlessness being rooted in pre-colonial culture and customary institutions. Indirectly it raises questions about different meanings of land as ‘property’, which is of interest beyond the Kafue Flats.

Based on a reanalysis of data collected from the Kafue Flats between 2002 and 2018, this paper explores two main theses on the gendered use of land over time, with one focusing on the coloniality of property rights and the second focusing on the conceptualization of land and its common pool resources (CPRs), previously shaped by local ontologies. First, we argue that in the face of increasing demand for land in the Kafue Flats, men and women showed a continued interest in cooperation and collective land use in clan/kinship groups under customary law, leading to the innovation of institutions, which were temporarily capable of adapting to change while limiting the concentration of land (the equity argument).

In particular, as shown in this paper, less affluent individuals—men and women—may prefer customary land tenure over privatization, and customary rules were particularly successful in communities organized into extended kinship groups.

The second thesis proposes that customary rules that governed collective action, including rituals and rites based on an animistic/totemic ontology, were long-term-oriented, limiting access to CPRs to ensure that they benefit the entire group over time and generations (the sustainability argument). We have already shown that the traditional system of managing access to resources such as land for agriculture, pasture, wildlife and fisheries provides more social and economic security than that provided by privatization, benefiting a larger number of people. Insights from applying a feminist perspective to this case study can enhance our understanding of the importance of common property for women's economic participation and illustrate the potential impact on household food security.

### *1.1. Coloniality of Gender and Land Rights*

With the adoption of the Sustainable Development Goals (SDGs), particularly SDG 5 on achieving gender equality and its indicators 5a1 and 5a2 on promoting women's equality in land ownership, control and access, addressing gender inequalities has become central to the international development discourse. However, from a decolonial feminist perspective, the idea of gender equality, when applied in formerly colonized contexts, is criticized for imposing a universal concept of gender in contexts where gender, as a hierarchical order of men over women, cannot be separated from other structuring principles of social organization, such as race, class, marital status or seniority [2]. The example of Kasale, who lived in the Kafue Flats over a century ago as a wealthy, influential woman, shows that female sex alone did not automatically preclude the ownership of land and cattle as well as political power. Reproductive obligations defined women's roles for a while, after which women could turn to similar economic activities as those of men. Woman-to-woman marriages in Kenya followed a similar pattern; after reproductive age, women could become the head of a homestead and marry younger wives who would cultivate the land [3]. Such examples challenge historical perspectives that understand power in the precolonial period as men's control over the labor of less powerful categories of people, in particular women, but also slaves and youth.

Although rights over people that the colonial powers classified as slavery were abolished, control over women was formalized in customary marriage law [4]. In this process, the colonial powers interpreted local marriage rules against the backdrop of the common law of nineteenth-century England, where before 1870, a married woman ceased to exist as a legal person after marriage. She and her property became subordinate to her husband, and she lost the ability to own property [5]. Women in the Kafue Flats may thus have lost land rights with the arrival of colonial rule and the 'invention' of customary law [4]. Historians indeed have suggested that customary law was not an adequate reflection of precolonial local institutions. Local rules were quite flexibly interpreted and transformed over time, adapting to changing contexts. When the colonial powers defined customary institutions, they were freezing the previously flexible rules.

The current international gender and development discourse does not consider this difference between customary and precolonial rules, and it continues to understand gender inequality in access to land as a product of the culturally entrenched patriarchal order of patrilineal societies, which is discussed as a major cause of rural poverty in Africa [6,7] and a main obstacle to women's economic participation in the region [8,9]. The solution, from this hegemonic perspective, is the promotion of women's land tenure through statutory law. However, several scholars [10–12] who have contributed to the debate on customary and statutory land tenure regimes in African countries have questioned the effectiveness of statutory law in protecting women's rights to land, especially given the security of tenure that women had in African customary land tenure systems. Private land ownership and leasehold titles were difficult for most women to obtain given their current, often subordinate, social status and limited participation in the formal economy. In contrast,

women found the “living” customary law regimes more promising in their attempts to claim their rights to land [13], as we also show in this paper.

### 1.2. Land and the Collective Ownership of Common Pool Resources (CPRs)

Between the colonizers and the colonized, conceptual and ontological differences characterized their understanding of land and land ownership. Li described land as a particularly rich and diverse array of ‘affordances’ with multiple values and meanings for humans. Its resources are ‘a provisional assemblage of heterogeneous elements, including material substances, technologies, discourses and practices’ [14]. Land, in her view, combines material and more-than-material meanings and affordances, and different actors are likely to have different views of what land is and what it should be used for [15]. In legal frameworks, this complexity and different perspectives on land are dealt with in various ways. Land ownership in statutory law, for example, usually includes the soil surface and, to varying degrees, what lies beneath and above it, such as water, minerals and land-related common pool resources (CPRs), such as fisheries, pasture and wildlife. Collective ownership rules guided access to the commons; in Mali, Cameroon, Tanzania, Zambia and Botswana, for example, a person had to be a member of a local community and follow clear rules that coordinated the use of interrelated CPRs, such as pastures, fisheries, wildlife, veld products and agricultural land in a floodplain with seasonal flooding and receding water [16]. In addition, rules of reciprocal access to neighboring commons were also an important part of these common property institutions, capable of buffering vulnerabilities [17,18]. Colonial and postcolonial governments seized and reallocated CPRs often independently of the land and its owners. In many African floodplain areas, for example, all citizens can, in principle, acquire fishing licenses, usually based on quotas, and closed seasons were introduced based on assumptions of scientific experts about the local ecosystem, disregarding local knowledge and rules to collectively manage CPRs [15]. At the local level, this meant, however, that those who used to catch fish in their own fishing grounds then had to purchase a license in order to access resources they formerly owned.

Many precolonial institutions that provided access to CPRs in a coordinated way were previously associated with animist ontologies that required rituals to obtain permission from the more-than-human world to use resources. These institutions also guided the management of CPRs; collective ritual activities were compulsory, for example, before communal fishing could take place and provided a means of control and spiritual sanction [15–17,19]. Hence, the concept of land as property in statutory law, and also as conceptualized in the SDGs, does not correspond to notions of animistic and totemic relationships about what belongs together in terms of places, animals, plants and people [15,20–22]. Ecology scholars have recently pointed to the potential for ontologically different relationships between humans and non-humans for sustainable resource management, raising expectations for more sustainable use of natural resources through local knowledge and practices rooted in an ontologically different conception of “nature” [19,23,24]. Land, from this perspective, is more than just material and goes beyond its utilitarian aspects [25]. Land is also a place of belonging, of ancestors and spirits and of hope and imagined future, or, on the contrary, it may be seen as barren, dangerous, alienated and estranged. In cultures with animistic or totemic ontologies, land and what is on it can be perceived as animated and agentic, requiring specific actions and rituals for conviviality.

### 1.3. Land Tenure Systems in Zambia

In Zambia, as in most African countries, there are two principal forms of land tenure systems: customary and statutory tenure, which reach back to the colonial period [26]. During colonial times in Northern Rhodesia/Zambia, the introduction of crown land aimed at securing land rights of white settlers and the formalization of customary tenure was effected to facilitate the taxation of the local farmers and alongside efforts to increase agricultural production for growing towns in mining areas [27]. At this time, only a small portion of the land was crown land and was thus privately owned [28] p. 174. After inde-

pendence in 1964, crown land was transformed into state land, with private land then being administered by the independent UNIP government, and most areas remained under the rule of customary law [28].

Land tenure formalization has been promoted throughout sub-Saharan Africa in recent decades, with the expectation of positive impacts on land investment, agricultural productivity and farmers' incomes. Compared to other continents, the impact of private land ownership on agricultural production has been weaker for sub-Saharan Africa [29], but some positive effects were shown for women's land ownership, though the evidence remains weak [6]. Moreover, in Zambia, since 1995, land can be privately owned through a personal leasehold title with a maximum possible duration of 99 years (three generations), subject to the approval of the chief and the president [26]. This has not been without conflict. There have been suspected cases of abuse of power by chiefs who have been accused of selling land to wealthy buyers or withholding land from political opponents, and some cases have been taken to court [30]. It was also noted that the introduction of the leasehold title alone did not increase women's land ownership as intended. Consequently, in 2000, a gender policy and subsequent draft land policies stipulated land ownership by women; however, success was still only moderate [31–33]. There are unresolved questions about who approves the allocation of private land that is collectively used, and who receives the land title if the extended kinship has a customary right to use the land. In such cases, women may be disadvantaged, as household and clan leadership are usually in men's hands.

In Zambia, in addition, resources on and beneath the land surface are regulated by the state, not by customary law, also in the case of customary land tenure [22]. Alternatives to private land ownership, such as collective land titles, e.g., for grazing areas in Tanzania, where it is possible for a village to obtain a title, are not provided for [27].

## 2. Materials and Methods

This paper discusses the case of the Kafue Flats in southern Zambia. The data presented here were obtained primarily during several periods of fieldwork between 2002 and 2004 and between 2009 and 2012 and are supplemented by subsequent visits in 2013, 2016 and 2018. Between 2002 and 2004, extensive ethnographic data were collected by the authors and a team of local men and women who participated in the research design, data collection and analysis. At that time, research focused on natural resource management, food security and nutrition. From 2009 to 2012, the research continued with a focus on HIV and livelihoods. Shorter follow-up visits included a supervised student visit to the research sites in 2018 that resulted in a master's thesis on land use change [34]. We combined observations with open-ended interviews, informal conversations and more structured approaches, such as semi-structured interviews and focus group discussions, as well as household surveys. Formal interviews were recorded, translated and transcribed. The ethnographic data collection has been described in more detail in previous publications [22,30]. For this article, the first author reread the transcripts and notes that related to women's accounts of land use change and ownership.

## 3. Results: Reanalysis from a Gender Perspective

### 3.1. Gender and Land Tenure Change in the Kafue Flats

The Kafue Flats are a floodplain rich in natural resources in a semi-arid area. During the last three months of the rainy season, between 3000 and 5000 km<sup>2</sup> of the plain are flooded. The flooding is caused by the water of the Kafue River, which has its catchment area in the industrial zone of the Copperbelt. This particular situation brings with it rich fauna and flora. The plains provide pasture for livestock in the dry season, and fertile soil for agriculture is found in the woodlands. Adjacent to the area, large-scale agricultural plantations and mining areas have been developed.

In the pre-colonial era, various groups settled in the Kafue Flats, specializing in different livelihood strategies, such as fishing, hunting, gathering, as well as transhumance,

and the floodplain was used as a seasonal grazing area for livestock. Agriculture was a mainstay of livelihood at this time, and by the time the first colonial administrators arrived in the 1920s, millet and sorghum, cassava, sweet potatoes, groundnuts, maize and some vegetables were grown [1]. In the woodlands adjacent to the floodplain, clan groups settled in fenced villages to protect themselves from raiding groups and wild animals. During the colonial period, after pacification and with the advent of roads, railroads and small livestock, homesteads were built farther apart, and newcomers and younger people moved to areas farther from the earlier settlements. Connection to the place was established through sacred sites where ancestral spirits and other non-human supernatural beings resided, including rain shrines or sacred anthills. Until today, land has been controlled by a headman or -woman, who has the right to allocate land to the kin group of the head of the household as well as matrilineal kin members, but never to sell it.

In the biographical interviews that we conducted in the Kafue Flats between 2004 and 2010, men and women confirmed that women used to own their personal fields until colonial powers pressured households to produce cash crops for the emerging market in the growing cities of the mining regions. Although in pre-colonial times both men and women contributed equally to the cultivation of the land, the plow introduced a gendered division of labor that, along with the need to produce crops for sale, changed the meaning of land and shifted access to land in favor of men. Men, as heads of households, were then taxed and became more interested in growing crops, relegating women's use of the land for subsistence production to the background. As land under customary tenure in colonial and early postcolonial times was controlled mainly by men, women increasingly lost access to land:

*'After the introduction of the plough [in the 1950s] most of the women had no chance of getting a field and especially when they sold the maize at the market, all the fields were taken away by the men.'* (CR, 2004, Kafue Flats)

After the introduction of leasehold titles in 1995, customary tenure in the Kafue Flats could have come to an end. Users of customary land—also women—could apply for a leasehold title with the consent of the headmen and chief. Indeed, in the fenceline communities bordering the industrial agricultural production areas, a process of land privatization started. Land bordering privately owned state land along the railroad, which had been given to white farmers in the colonial period for maize production, remained in private ownership also after independence. In this area, pressure on the land increased due to the expanding sugar cane industry. With the idea to claim compensation for their land losses caused by industrial sugarcane production, smallholder farmers on customary land adjacent to the plantation decided to form a trust to pool land for an outgrower scheme for the sugarcane industry, from which they would all benefit [35]. Landowners obtained leasehold titles on their customary land and shares to profit from the sale of sugarcane on the land they rented out. However, the cash flows to be generated were concentrated in the hands of a few registered cultivators, who were usually men [36,37].

The trust was not formed without resistance. The relocation of some families from their land that was then rented out to the sugar cane company led to conflicts in the community, particularly with regard to the protection of ancestral sites and cemeteries [35]. Women played an important role in this resistance. Research on the transformation of land use also showed that the non-participation of women in communal processes was systematic from the beginning, as illustrated by a 2007 report prepared by the planning department of the Mazabuka Municipality, which was involved in the parceling of land for the Magobbo outgrower scheme: *"...women should not be on site while the demarcation is in progress [...] because their presence also has an effect to derail the programme"*. If women's participation in the outgrower program nevertheless increased over time, it was mainly due to inheritance by widows of the then privatized land [35].



### 3.2. Inheritance of Land: The Flexibility of Customary Tenure

In the more remote rural areas of the Kafue Flats, leasehold titles were uncommon. Nonetheless, some women showed interest in the new option. After the turn of the millennium, when VJ, an unmarried woman in her early twenties, inherited land from her father along with her brother, she considered acquiring a leasehold title for herself and her teenage brother so as not to lose the land to her father's relatives. The inheritance rules prescribed that, after the death of a person, a relative was designated as the successor, 'eating the name' (*kulya ihina*) of the deceased. At funerals, the surviving family members decided succession in a clan meeting (*lubeta*), also taking into account that the spirits of the ancestors should be satisfied with the decision, which opened a wide field for negotiations. In the case of VJ's father, her young brother was designated to eat his father's name. In doing so, he assumed custody of all assets and responsibilities—including the responsibility to oversee the land and distribute it to members of the group. However, due to VJ's brother's young age, the family finally agreed that the land would remain in VJ's custody until she would pass it on to her younger brother and her own sons:

*"I didn't want to leave my father's village because I am the firstborn in the family, even though I am a woman. And we are just born two. So when my father passed away the name of my father was given to my young brother. . . . [My father's relatives] could have taken the land since my brother was young. That's why I wanted to stay. . . . Otherwise it would have been difficult to get the land back. So I fought hard not to leave the place until my brother was grown and married. . . . As long as I stay alone with my brother at my father's village I can take my children to school". (VJ, 2010)*

Daughters did not formally inherit under customary tenure because married women would then transfer the property of their fathers to their husband's group, even though kinship was bilateral and the system was often flexible [38]. Because VJ was unmarried, she could, however, keep the land that her father had given her to farm. Under customary law, unmarried women (*wahiatanda*) who received a field and/or a house from their father had the right to keep the land after their father's death. This meant that, as long as VJ did not get married, she and her sons could stay on the land. In the end, VJ did not pursue her original plan to obtain a leasehold title, as the process was lengthy and costly and required the approval of both the headman and the chief, who may have imposed their own conditions. Under customary tenure, in contrast, VJ had enough confidence to be able to negotiate and defend her right to the land of her relatives. She completed secondary school and was well respected in the community, even at her young age. Coincidentally, accusations of witchcraft over her father's death led to the imprisonment of several male relatives who could have tried to claim the land at the time when his succession was negotiated in the kinship group, which further increased her bargaining power during negotiations.

Under customary tenure, women's land ownership extended also to very wealthy households. In VJ's village, when one of the influential, wealthy cattle owners died shortly before the millennium, his sister, who was widowed and past reproductive age at the time, was designated to "eat his name" in the absence of a suitable male relative who lived in the area. She became the guardian of over a hundred cattle and had the power to allocate large areas of agricultural land and pasture in the chieftdom. As the family was responsible for allocating grazing land to many farmers, it required a person to be physically present. Relatives in town could not show enough presence to monitor the use of the pasture, so the sister was chosen. The example of Kasale in the early 20th century, who also was a powerful leader at the time, suggests that these exceptions of female headship were not a new development.

For widows, inheritance was more difficult. In order to stay on the land of their deceased husbands, a new link to her affines' clan had to be created. The widowed woman had to remain in the husband's kinship group to continue to use the land and later pass it on to their children. To make this possible, a widow could be given the option to remarry a relative of the deceased husband, provided that both parties agreed. Widows who did not

want to marry a relative of their deceased husband returned to their own relatives to receive land from their father or maternal brother, remarried someone else or remained single, which put them at a disadvantage because they lost all the assets that they had worked for together with their former husband. Although the practice of widow inheritance is today seen as constraining women's autonomy and basic rights, it once served to protect women and their children by giving the woman and children access to the land, labor and protection by her deceased husband's group.

However, widow inheritance is still practiced in cases in which it seems to be a viable solution for the wider family, especially also for the children, who can then remain in custody of the deceased husband's extended family. Not only women but also men must make hard decisions, as in the case of the father of VJ's two children. During that time, he negotiated marriage with VJ's family, his brother passed away, and his own family urged him to marry the widow of his deceased brother, who had left five children. For her and the children's sake, he agreed, and marriage to VJ thus became impossible. In turn, the widow of his brother continued to have the right to cultivate the land of her affines for as long as she stayed married with her former brother-in-law. Only at an advanced age, eventually, when she would no longer cultivate the land herself, she might decide to move back to her own father's or brother's homestead.

Communal land was, however, not always provided by men. FJ, a single mother, relied on the family land that her grandmother gave to her:

*"I met a man and I went out with him, I got pregnant,—my grandmother gave me a field, and I kept pigs and stayed with my grandmother until I had my first [serious] boyfriend".*  
(FJ, 2010)

This example shows how the bilateral kinship structure in the area did not exclusively provide for patrilinear land use rights.

Both VJ's and FJ's examples illustrate the flexibility of rules under customary land tenure and how these rules were reinterpreted to meet the needs of the group as a whole. This did not preclude cases of abuse and property grabbing, in which daughters or widows were robbed and evicted from their homes by their relatives after the death of a father or husband. In such situations, women may indeed be better protected by statutory law and may turn to the government court to assert their rights.

Because only one person could "eat the name" of a deceased person and take over custody of the land of the extended family, most men also had to negotiate land use with their male relatives who were heading their family. Often, it was only at an advanced age that a man or woman became the head of the group, with decision-making authority over the customary land, but also with the obligation to care for relatives. Before marriage, therefore, many young men migrated to industrial centers in search of work in order to be independent of their fathers and to avoid responsibility for kin in the absence of resources. However, the migration often ended in a back-and-forth, as it was difficult to find well-paid work, and business opportunities in the informal sector were equally difficult. When these young men returned from urban areas, they became a burden to their relatives unless they had access to customary land so that they could start farming.

### 3.3. Privatization: Ambiguous Alternative to Customary Tenure

Large-scale industrial developments and growing areas of privately owned customary land (leaseholds) adjacent to industrially developed state land reduce the flexible pool of customary land for smallholder agriculture. Recognizing the pressure on communities affected by land loss, new ways of making land available to large-scale investors were sought that would benefit the community. Downstream in the Kafue Flats, where pressure on land had already been high for several decades due to industrial sugar cane production encroaching on former grazing land, outgrower schemes were created that offered customary landowners the opportunity to lend land to the sugar cane company, and thus they become "shareholders". However, ten years after their introduction, sugarcane outgrower

schemes had not provided equitable benefits to the community members that provided the land. Revenues tended to be concentrated in a few hands, and land for maize production and as pastures was dwindling. This also affected local food security, as one young woman described:

*“The disadvantage is that this land, where they grow sugar cane, in the past they used this land for farming maize. Nowadays people don’t have places to plant maize, unless they buy [land]. . . . Nowadays people just buy [maize] as if they are in an urban area”. Her mother added: “That time [before the outgrower scheme], we never used to buy land. We were just given, for free. This time we buy, and the prices are just too high.”. (BJ and daughter, 2018)*

The outgrower schemes did not improve women’s access to land and economic participation but, in contrast, further jeopardized the food security of vulnerable households. Exceptions were cases when women inherited land from their deceased husbands, and leasehold titles prevented the husband’s extended family members from taking over the land.

### 3.4. Agricultural Commons and Satellite Land Owners

Particularly, the less affluent feared losing their access to land and their homes if land was privatized for the benefit of wealthier family members. During the first phase of research in the area, only two wealthy farmers in the chiefdom obtained a leasehold title for their land. Since then, leasehold titles have become more common. Over the past years, a new trend has emerged. Urban middle-class men and women tried to acquire leasehold titles in rural areas where land was still available to outsiders, and others invested in land in their extended family’s villages. Often, this was performed as a preparation for later retirement. Relatives who managed to turn their education into a well-paying position began to invest in building houses on their relatives’ land, acquired cattle and purchased agricultural inputs. Building a house and using the land for agriculture was usually sufficient to secure usufruct rights even without requesting a leasehold title. Notwithstanding, urban middle-class people who we spoke with usually tried to register leasehold titles for the land they invested in. In this case, wealthy women as well as men relied on “agricultural commons”, including the land and labor of their extended family or clan, especially while they still lived and worked in the city. Through this mechanism, the privatization of land widened the already existing wealth gap between the urban elite and the rural population within and between families.

Wealthy women had equal access to land that belonged to their extended family compared to men. They, however, depended on male relatives to take care of their land, especially if they also invested in livestock or if they hired workers to farm their land. They usually hired rural relatives or other local people because labor was available at a low cost. In some cases, this meant that rural relatives who lacked the money to buy agricultural inputs such as seed and fertilizer continued to farm but no longer in their own name, and they received a small payment rather than benefitting from selling the crop themselves.

Hence, if wealthy women invested in their relatives’ land, their capital was more powerful than the gender order. One of the sisters of CR, a smallholder farmer in a remote rural area of the Kafue Flats, was a lawyer in the capital. She built her own house on the family’s land, which was still under customary tenure and could therefore not be purchased. She later invested in a second house for her brother and his family, who had farmed the land for two decades. In this way, some redistribution of wealth within the family took place, and the land remained accessible for the extended family group. It comprised the burial site for members of the extended family and also for those who had lived in town.

### 3.5. Living of the Land: Cattle and Grazing Areas

Access to collectively managed grazing lands was and remains critical for livestock owners and any other family members who have an interest in the animals. In addition to the agricultural lands around the permanent settlements in the Kafue Flats woodlands, the



grazing lands in the floodplains were particularly important for grazing during the dry season when the seasonal rivers receded, leaving large areas of grass (Table 1).

**Table 1.** Overview of activities in the colonial period.

	Cattle	Agriculture	Fishing	Hunting	Gathering
Start of the rainy season	Men bringing back their cattle to the village from the cattle camp in the plain (kubola)	Men prepare the field, and women cultivate it	Collective fishing: women fish with baskets, and men fish with spears, hooks and fish traps	Men hunt individually in the village or in the chichi	Women/men (boys) collect fruits
Inundation period	Men herding cattle in the woodlands during the rainy season	Weeding, early harvest	Women fish with baskets, and men fish with spears, hooks and fish traps	Men: collective hunting (chila)	Women/men (boys) collect fruits
Early dry season	Cattle herded in harvested fields and later driven to cattle camps in the floodplain (kuwila)	No activity or only small gardens on the river	Fishing ends, later joint fishing in ponds	No hunting in the floodplain, only hunting in village areas	Women collect wild plants
Late dry season	Livestock herded by men in cattle camps in the floodplain	No activity	Men fish in ponds near cattle camps, mutual and joint fishing days	No hunting in the floodplain, only hunting in village areas	Women collect wild plants

Women usually owned only a small portion of the animals, and they kept and raised their livestock for their children and did not sell them. Older women were given their first animal during their initiation rites, and they kept it together with its offspring for their children. During marriage, an animal was again given to the bride. With the increasing popularity of Christian marriages, initiation and marriage rites were, however, no longer consistently followed, also reducing women's share of the herds.

The animal belonging to the woman remained with the herd of the father or brother until it was passed on to the woman's sons. Women's intergenerational responsibilities to breed and keep cattle for their children potentially contributed to the prevention of the desperation sales of animals in the drought years after 2000. Until the early postcolonial years in the 1970s, cattle were generally not considered a commodity. There was a strong bond between humans and cattle, even at a spiritual level. During initial fieldwork in 2004, we were invited to join one of the wealthiest cattle owners in the area to observe how he communicated with his magic ox. Every time he wanted to sell a cow, he first obtained permission from the ox (Table 2) [22]. Earlier on, it also used to be taboo (*tonda*) to sell milk, and dairy products were shared only with members of the extended kinship group [39].

Since the 1990s, many households have no longer had cattle or owned only few animals. However, especially for those with fewer animals, which included most women, communal grazing in the floodplain during the dry season remained important. It is noteworthy that women's cattle ownership and women's reliance on communal grazing areas was completely absent from rural development approaches targeting specifically women. In contrast, women were incited to invest in planting labor-intensive cash crops, such as groundnuts, to cultivate vegetables or to engage in relatively high-risk projects, such as raising chicken. Goat-keeping was also popular among some women, but it required individual herding, in contrast to cattle that were usually part of a larger herd managed by the extended family. In addition, only cattle had the potential to buffer substantial financial expenses throughout the year. Women and their households thus lost access to milk and dairy products and to financial resilience through a decline in the number of cattle and reduced access to grazing areas.

**Table 2.** Institutional, technological and ontological change associated with land use and CPR.

	<i>Institutional Framing</i>	<i>Ownership and Distribution</i>	<i>Technologies and Use</i>	<i>Ontology/Spiritual Notion</i>
Agricultural Land	<p>Oral history, 20th century</p> <p>Common property: Agricultural land was conceived as “ancestral land” tied to clans or families, not individuals. With colonialization, the most common rules to allocate land were formalized in ‘customary laws’.</p>	<p>Conquest of land led to ownership; power to distribute land was in the hands of the clan head. No notion of permanent individual ownership, distribution within the group was flexible. Women and men had access to land through their fathers or maternal uncles (bilaterally); men also through the fathers of their wives; women lost access to land from the paternal line upon marriage, passing to the husband’s clan. Maize harvests were considered a collective good, and other crops were distributed by women.</p>	<p>Land was used for agriculture, grazing, hunting, fishing and gathering. Soil cultivation was done with hoes by men and women; weeding, harvesting and threshing were predominantly performed by women. Intercropping, combining millet, sorghum and maize with beans, peanuts, etc. was a technology of women who also grew sorghum for local beer production. Men built granaries, and storage was partly under their control.</p>	<p>Property was conceptualized as a notion of belonging through sacred sites, such as ancestral spirit sites, burial sites, sacred anthills, rain ritual sites, etc. Land and CPRs were the common property of humans and spiritual beings in the environment (animistic/totemistic ontologies). Men were the guardians of maize seeds and always carried them with them. Magic accelerated the growth of the plants; rain shrines were also controlled by men.</p>
	<p>Observations 2002, 2009, 2018</p> <p>Statutory law: All rights to land were held by the president, either as private, customary, or government land. Agricultural policies shaped local production: Partially subsidized crop cultivation, sometimes gender-specific, separate subsidy programs for smallholders.</p>	<p>Customary land continued to be administered by chiefs and headmen, and ownership tied to lineage. Since 1995 men and women could acquire leasehold and freehold titles for customary land, even though women rarely did. Women were still expected to work in their husbands’ fields, but in principle they had the right to own fields under customary law and through leasehold titles.</p>	<p>After the introduction of the plow in the 1950s, men worked the land, and women sowed. The production of cash crops was individualized, and increasing pressure for good agricultural land limited access. No more intercropping, instead conversion to hybrid maize monoculture; no long-term storage possible. After the introduction of the plow in the 1950s, men worked the land, and women sowed. The production of cash crops was individualized, and increasing pressure for good agricultural land limited access. No more intercropping, instead conversion to hybrid maize monoculture; no long-term storage possible.</p>	<p>Sacred places, especially graves, continued to be important for a sense of belonging and land ownership. Rain sanctuaries; magical practices were performed to improve crop harvests.</p>
Flora: pasture, forest	<p>Oral history, 20th century</p> <p>Common pool resources: Access to grazing land was granted by the guardian of an area. Trees and certain plants and areas were safeguarded by different families.</p>	<p>A specific clan distributed access to pastures; trees used for canoe building also belonged to one family. Medicinal and edible wild plants were collected by both men and women.</p>	<p>Herding was performed by young men. Mainly children collected wild plants, vegetables and leaves (collectively). Women gathered firewood and edible plants. Men cut wood for construction.</p>	<p>Sacred places, e.g., anthills required specific rituals to protect livestock in the floodplain, e.g., from predators. Milk was not sold (taboo). Clans had sacred trees and used clan-specific medicinal plants.</p>
	<p>Observations 2002, 2009, 2018</p> <p>Trend toward privatization/free access (absentee herd owners) for pastures; large-scale land acquisition by external actors; weak control led to overuse.</p>	<p>Land ownership: Few men benefitted from land rentals or sales; the majority lost access to grazing land. Women lost access to grazing land for small livestock and to forest products. Leasehold titles: Mostly men received land titles.</p>	<p>Men took over herding the animals. Fewer women had access to grazing land. Commercialization of milk: Sale performed by men. Women collected firewood and edible plants; men and women collected medicinal plants.</p>	<p>Milk was no longer sacred and was commodified. Rituals to protect cattle in the floodplains were still performed. Trees were no longer spiritually protected, and there were fewer medicinal plants due to the loss of sacred places.</p>

Table 2. Cont.

	<i>Institutional Framing</i>	<i>Ownership and Distribution</i>	<i>Technologies and Use</i>	<i>Ontology/Spiritual Notion</i>
Fauna: wildlife, fish	<p>Oral history, 20th century</p> <p>Collective use of common pool resources.</p>	<p>Hunting rights were granted by headmen and the chiefs.</p> <p>Fishing was under the control of chiefs; access rights for men and women. Fishing with boats (and nets) was only performed by Lozi or Batwa men, rights granted by Ila chiefs.</p>	<p>Hunting was performed mostly collectively, occasionally individually near villages. Men hunted, and women preserved the meat.</p> <p>Women fished mainly during the rainy season with baskets; men fished with spears and fish traps; men fished occasionally and by invitation. Drying fish was performed by women.</p>	<p>Some animals were taboo; some areas and times were taboo for fishing. The river guardian controlled the spirit of the rivers. Fishing had to be opened with a ritual to protect spawning areas and to ensure the abundance of fish. Rituals also served to keep crocodiles away.</p>
	<p>Observations 2002, 2009, 2018</p> <p>Wild animals are under the control of the Zambian Wildlife Authority. Government regulations introduced by the Ministry of Fisheries and Livestock.</p>	<p>Abolition of traditional hunting, introduction of GMA, national parks and licenses. slosing season overlapped with the time when subsistence fishing was most important to poorer households, taking no account of women's pre-colonial access rights.</p>	<p>Men usually hunted, and women dried and partly sold the meat. Women also fished for subsistence during the closed season, and men and women alike sold fish.</p> <p>Women played a large role in the processing and sale of fish.</p>	<p>The taboo of fishing in some waters at certain times was not respected any more, especially for young men starting to fish with baskets before collective fishing was opened.</p> <p>Rituals to keep crocodiles away continued to exist</p>

### 3.6. *Living of the Land: Wildlife, Wild Plants and Fish*

In the 1940s, local hunting was restricted and then completely banned with the end of colonial rule. Hunting was still possible with licenses in game management areas (GMAs), but licenses were expensive. Therefore, hunting without licenses nonetheless took place, especially during times of scarcity. Women dried the surplus meat for sale in urban centers, putting themselves at high risk of severe penalties.

The establishment of a GMA, like other transformations of land, also restricted the gathering of edible and medicinal plants, the former being important for poorer women to overcome seasonal food shortages. Local knowledge of edible plants already declined by 2004, and few rural women still knew how to prepare various tubers, fruits and leaves. Local knowledge of medicinal plants was still widespread, but due to an increase in settlements in more remote areas, bush plants had to be found in more distant places, and the effort to collect these plants was no longer made regularly. However, people continued to take care of areas where medicinal plants grew and did not allow agriculture everywhere.

Although hunting lost its importance for local livelihoods due to severe penalties, fishing remained common, in particular among poorer households. Fish, if caught by women, contributed to daily meals, especially during the rainy season when the tributaries of the Kafue River filled with water. However, the time when women used to fish in tributaries fell in the middle of the regional closing season introduced by the government. The local fishing season began with the rains, when tributary water met the Kafue River water and fish began to migrate into tributaries. During the rainy season, before the crops were ripe, fish from the tributaries was a reliable source of food for the less well-off local women, who traded the fish for maize or milk with better-off neighbors. Fishing used to be allowed only after a river guardian performed a ritual that determined the proper time to fish after the adult fish had spawned, but this was not considered legitimate by the government, whose closing season extended beyond this time. Similarly, of the many different fishing techniques that were used, the baskets used by women were considered illegal, although they were only used during a limited time span (Table 2). The fishing activities of the women, which contributed to subsistence, became illegal. Men who also fished during the closing period preferred to sell the fish instead [17].

### 3.7. *Multiple Ontologies*

With the ontological shift toward naturalism and the prohibition of rituals by Christianity, the legitimacy of rules based on a local animistic or totemic cosmology, which was particularly relevant for the management of CPRs, weakened. It affected women in particular because rites or techniques specifically for women were not substituted by new statutory regulations, as in the case of the initiation rite, or when considering the ban of fishing baskets. State rules for fishing were considered superior to customary regulations, and the subsistence needs of rural women were totally ignored, as the new rules were based on scientific knowledge that was relevant for commercial fishing. We discuss elsewhere that, because of resource constraints, the state could not fulfill its duties in terms of monitoring fisheries effectively. Nevertheless, government representatives and commercial fishers were in a stronger position when they referred to scientific evidence as the basis of state laws, even if *de facto* evidence on the breeding behavior of the fish, for example, was not available. This resulted in the situation that the government could not monitor fisheries effectively because of resource constraints, but more powerful actors such as commercial fishermen used government rhetoric to bypass local fishing rules [15,17].

There was limited hybridization of different ontologies; rather, local ontologies were transformed but continued to coexist. VJ and the local research assistants spoke of ongoing tensions between Christian and traditionally oriented women who sought to prove the superiority of their belief system by invoking either the blessings of God or the powers of spirits and magic. However, the management of the commons, particularly the rules that guaranteed women's rights of use, depended on a "backward" animistic ontology, while state rules had long been supported by naturalistic, scientific arguments rooted in ecology

and biology. In the end, the statutory law guaranteed women's property rights de jure, but traditional rules and rites better protected women's use of the CPR. Discrediting the animistic ontology, therefore, ultimately meant denying women's previous rights to CPRs.

#### 4. Discussion

##### 4.1. Women and Land Ownership between Customary Tenure and Private Property

Among the transhumant pastoralists who depended on the natural resources of the Kafue Flats, such as grazing land or fisheries, which cannot be easily divided for individual use, institutions of cooperation evolved to benefit groups rather than individuals. In precolonial times and, later, under customary tenure, men and women had specific rights to use their group's land, which they could claim and defend in a *lubeta* (a clan assembly), in the traditional court or in the colonial and later government courts [40]. The introduction of colonial law and, later, postcolonial law and its understanding of property rights as private ownership led to a situation of legal pluralism in the rural areas under customary tenure, whereby land could be claimed from the extended family. If the land could be secured, a leasehold title could be claimed from the government, which would allow the land to be secured as private property, meaning that neither the extended family, the headman or the chief would have any say over the land once the title was obtained. This land would become part of a private land market, and the acquisition of land would no longer be based on kinship ties but on purchasing power. At this point at the latest, access to land would become almost impossible for the majority of the rural population, and even more so for rural women, who were often in a financially dependent position. Reluctance to give away customary land for titling was thus common, as were fears that some people would benefit disproportionately [26,33], like what happened when land was titled and then pooled for the Magobbo Trust [34,35].

When women made use of the statutory law to claim land that they inherited under the state law, there was a problem regarding what would have been reallocated to members of the deceased husband's family under customary tenure, so there was little understanding in the population [22]. Similar reactions were reported in Kenya, where women insisting on their right to land that they inherited sometimes faced physical violence from family members [41]. At the practical level, there were also many barriers to translating women's statutory land rights into actual land ownership, which has also been observed in many countries [7–9,42]. Pressure on women to refrain from inherited land according to government law was therefore considerable.

As Ribot and Pelosi described two decades ago, the focus of governments and development programs on land rights neglects the actual transformation of a right of land into the ability to use the land. In their theory of access [43,44], which defines access as 'the ability to benefit from things' such as land, they refer to the fact that access always must be socially negotiated; having a right does not suffice. The study of access therefore requires a grounded analysis of who benefits from whom and why, and of the capacity of some actors to affect the practices of others [44]. This "web of power" is structured by external processes as much as by localized social order. Global and national economies, hegemonic discourses of sustainable development and the recognition of equal rights for men and women are examples of external factors at the global and national level, and at the local level, power is structured instead according to age, gender, economic status and group belonging. We must then recognize that external factors can shape the bargaining power of actors [15]; for example, women's land rights have become a global policy priority, stipulating the funding of programs providing free access to legal support in the case of land disputes for women [32].

We have shown that customary tenure can provide flexible solutions and is, in principle, capable of accommodating different needs, with benefits for women, even though customary tenure is commonly understood to prioritize men's interests over those of women. It is not a real choice, however. Customary tenure provided some security for women and especially for their children in the future, but the acquisition of titled land

was out of reach for most women. Securing individual ownership required costly legal procedures and support from traditional leaders to convert their land rights into land ownership, which was a significant barrier. In addition, the purchase of already privatized, titled land, such as that available in the eastern part of the Kafue Flats near the mining and industrial agricultural areas, was expensive and not affordable for a majority of women [35]. Women living in these areas were thus completely excluded from access to land, and customary land was no longer available for free. Ultimately, only a few, usually wealthy individuals, could benefit from the tenure provided by statutory law. Moreover, elsewhere in Zambia, land-use change introduced by local and foreign investors often did not benefit the whole community that previously owned the then-commoditized land [45,46], with women benefiting least [32].

According to Matenga, it was mainly women who actively resisted the sugar cane outgrower scheme in the Kafue Flats. Resistance was primarily related to resettlement plans and to ancestral sites [35]. The fact that women were deliberately excluded from the planning due to fears that women would not agree to form the trust in the first place points to the importance of communal land for women in particular. In 2018, Lüthi found that women were still severely underrepresented in political structures related to land use. The important bodies dealing with settlement and the trust were staffed exclusively by men, and only less powerful positions were held by women [34]. Moreover, in Kenya, where women's land rights have been strengthened by policies in recent years, women's claims to land titles were regularly silenced from within the local communities [41]. In Nigeria, government tenure even contributed to the erosion of the few property rights granted to women under customary tenure [47].

If the privatization of land is problematic, especially for economically vulnerable persons, is customary tenure better? If so, in which context? Scholars such as Peters [48] cautioned that customary land rights sometimes masked the interests of powerful actors in the pluralistic legal system, such as local elites who used kinship ties to gain access to land and land titles. This was also the case in the Kafue Flats, where wealthy relatives from urban centers, including women, invested in land on the basis of their kinship, reducing the options of poorer relatives. In recent years, according to data from Moonga, there has indeed been a resurgence of interest in agriculture and pastoralism in the Kafue Flats as part of preparing for the retirement of an aging urban middle class [49]. Women with professional careers in urban centers are also investing in the land of their rural relatives as a retirement strategy, as was also the case in our study. Both women and men relied on agricultural commons, including land and labor from their extended family or clan, especially while they were still living and working in the city and depended on good relationships with their relatives [50]. Decision making regarding women's access to land, rather than customary land rights per se, may thus still be skewed in favor of men. However, this is equally the case for state tenure. In this case, however, women may find it easier to negotiate their interests with their relatives, who would have to weigh a woman's quest against those of other family members. The context and setting also plays a role in the outcome of negotiations, shaping the bargaining power of the actors in a particular way [51].

A fundamental difference from customary tenure is that decision makers are, in principle, morally accountable toward the group, including women and their close relatives, so that the social and kinship relationships of a woman play a key role in negotiations. Women with a limited social network may find negotiations more difficult, but it is still a moral decision about who has access to the group's resources. Thus, unlike state law, moral judgment is part and parcel of land allocation under customary tenure, even if the abuse of power is unlikely to be directly sanctioned. At a time when accountability extended to the ancestral world, the fear of the consequences of the abuse of power was likely greater.

The collective nature of land rights, built on highly complex, differentiated social relations to land, thus requires that customary land tenure as an institution be examined



with a historically sensitive, contextualized analysis of the transformative, democratic potential of customary land tenure [12,25,52]. Clearly, the situation and context are key to determining whether customary or statutory tenure leads to more gender equitable land tenure. Policy efforts to strengthen women's rights under customary tenure are important, but women's growing opportunities for land ownership/use rights must still be negotiated at the social level.

#### 4.2. Women's Access to CPR and Multiple Ontologies

In many African regions, the stewardship of customary lands is still understood as a collective, intergenerational and more-than-material responsibility [15,53]. It is the institutions created around this long-term responsibility that are of renewed interest in the face of climate change and large-scale agrarian transformation [25,51]. In the Kafue Flats, the affective relationship to land that has been the place of human life over generations played a role in the resistance of women against the Magobbo Trust, and the wish to secure her father's land for her brother and sons made VJ stay on the land of her ancestors instead of remarrying elsewhere. The meaning that land has for the people living on it is not often explored, in contrast to the trade-offs between human and environmental needs, or between resource use and biodiversity conservation that are, for example, the focus of many feminist and environmental science scholars [54].

With food systems and food security in mind, our interest is equally in both human and environmental wellbeing, which requires us to reflect about the conceptualization of land and what is on it, as situated between nature and culture, between subject and object. The subject-object relationship between humans and the non-human world has been differently conceptualized by social science scholarship over the past decades. For example, applying a gender lens, ecofeminist scholarship criticized the hierarchical human-nonhuman subject-object dichotomy and explored how this dualism intersects with gender and other hierarchical dualisms [55]. Latour went further by considering nonhuman things having agency in the interaction with humans, even though he did not equate the agency of humans and nonhumans. In contrast to animist ontologies, the Latourian approach conceptualizes the more-than-human aspects of 'things' in the material realm, which is distinct from the affects or from the agentic nature of, for example, spirits that indigenous worldviews entail. Although we acknowledge an agentic reading of nonhuman beings, we, however, consider the spiritual world of an animistic worldview relevant for the analysis of social processes, in contrast to Latourian scholars. We further follow Ribot, who considered it problematic to flatten the subject-object hierarchy between humans and nonhumans, by assigning agency, or force, to both, as in his view, this bears the danger of obscuring human action behind the 'force' of a nonhuman, obscuring, in our case, also the social, political and economic causes of land-related vulnerabilities [56]. This is in partial contradiction to viewing non-material agents as relevant for social dynamics. However, we consider spirits and other nonhumans in an animist worldview rather as mediators of action and carriers of meaning of a response between human and nonhuman beings, often explaining and amplifying the consequences of a specific action that may disturb the overall 'harmony' between and among humans and nonhumans when cooperation and conviviality, not individual success, is at stake.

In the Kafue Flats, the agentic reading of nonhuman beings requested from its inhabitants a close observation of this world and careful interventions in order to not upset the nonhuman world. Not respecting the opening ritual for fisheries would upset the spirits and lead to lower catches and eventually attacks of crocodiles, for example [17]. Starting fishing at the same time after the opening ritual also allowed women to obtain an equal share of the fish, not allowing any favoritism. As we have shown before, when the exploitation of CPRs became more and more commercialized, especially women lost access to fish as men increasingly fished before the opening ritual, with negative effects on the livelihoods and resilience of poorer rural households [30]. Commercial fishermen used a naturalistic and capitalistic ontology and discredited locally elaborated rules rooted in

a different ontology as “lacking knowledge” about ecosystems, delegitimizing the claims of local people, especially women, who owned the resources by virtue of customary rights [57]. In addition, some Christian religious groups further contributed to delegitimizing local rules, which were based on an animistic ontology. Ultimately, this negatively impacted the most vulnerable women’s subsistence production in an environment where access to land was becoming scarce, as were the jobs that compensate for land loss. However, not only did women lose their specific pre-colonial customary rights to CPRs, but they have also not been able to replace this loss through statutory regulations. The institutional shift from the common ownership of land and land-related resources to state and private ownership has excluded women in particular from access to vital resources, and this cannot be fully compensated for by formally establishing land rights for women, as SDG 5, for example, calls for. As Larsen and colleagues showed [20], one of the problematic aspects of the SDGs is that local common property rights are not explicitly mentioned.

There are many examples of how women continue to share common resources and develop their own rules [15,58,59]. The individualistic, gender-responsive institutions created by governments to protect women’s land rights should, therefore, be expanded to include women’s collective rights to CPRs, building on customary regulations [20,22]. Such an alternative form of institution building could be based on locally developed resource rights, which are linked to new notions of equality.

#### 4.3. Limitations

The temporality of the data collected has some limitations. Although data on livelihood changes were systematically collected until 2013, later data were limited to shorter follow-up visits with students. However, changes in the area continued, including the opening of a mine, a secondary school and improved roads. Pressure on the land and its CPRs increased again over the past five years. Nonetheless, the long-term perspective documents some of the institutional changes related to land management and its impact on women.

#### 4.4. Conclusions

Today, the processes of the commodification of land and institutional changes from common ownership to state and private ownership risk individuals selling land that should actually serve an entire group, including its most vulnerable members. The loss of CPRs along with land tenure changes particularly threatens women’s livelihoods, food security and the resilience of less affluent households [50]. The reanalysis of this case study confirms that the transformation of customary law into state law has not necessarily improved women’s land ownership. On the contrary, customary land tenure has some advantages that also benefit women. It allows a large number of people to access natural resources in multiple and flexible ways, focusing on the next generations, and privatization permanently divides people into landowners and others. It is, therefore, not enough to protect women’s rights by granting them property rights enshrined in law. To preserve land for a larger kinship group, it may be more sustainable to integrate women’s interests into customary law tenure arrangements than to privatize land in a context where income opportunities for those who do not own land are limited and social protection is available only to a few.

Moreover, in discussions of the sustainability of human–ecological systems, women’s interests are often not considered. De-emphasizing local cosmology through naturalistic ontology particularly threatens women’s CPR use rights, which are embedded in the local cosmology and have never been translated into legal provisions in recent decades [53]. Prospects for new solutions may lie in modified traditional rules. In cases in which local livelihoods still follow customary law, familiarity with and respect for local ontology, including human–non-human relationships, can help with understanding local ecosystem–human interactions, leading to better-adapted local institutions alongside state regulations. In the case of CPRs, which cover vast areas and are difficult to monitor, the resources and

power of customary law enforcers are not sufficient to monitor and enforce compliance. Therefore, the state must also intervene and protect women's rights to access CPRs.

The question remains as to how women's interests can be incorporated into institutional reforms; there is a danger that local production systems and their gender dynamics will not be adequately taken into account in legal regulations. Moreover, interest in women's land rights should not obscure the fact that large-scale investments by more powerful actors, including foreign investors, pose a greater threat to the land rights of most locals who depend on customary land.

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