Land grabbing is not a new phenomenon in Sudan. The antagonism between private property and customary approaches to land ownership stretches back through the post-independence period and into the colonial era. The current developmental rationalisation used to support displacing peasants is structurally rooted in colonial discourses on modernisation, as Dr Christopher Zambakari explains.

Sudan: Land grabbing and displacements

In many countries around Africa, land has more than economic value to its owners. Identity is linked to land, which acts as a source of livelihood, wealth, social peace, and in some cases holds a ceremonial and religious value. For pastoralists and sedentary/agriculturalist communities and peasant societies, land is key to livelihood. Without it they cannot farm. Without grazing land, pastoral communities cannot feed their animals. The struggle over land is a struggle for livelihood. Two regimes of land tenure exist in most African countries: one based on private property rights and another based on customary rights. The tension between these two systems produces some winners and many losers, who are often dispossessed of their land. Advocates of land titling include governments, the Bretton Woods institutions, some local NGOs like the Land and Equality Movement in Uganda (LEMU) and the Uganda Land Alliance (ULA), as well as multinational companies. According to CODESRIA, the pan-African
research organisation: “Within customary tenure regimes, commons lands are even more vulnerable to expropriation as they are not physically possessed, are deemed to be under-utilised or unutilised, and thus can be expropriated in ‘national interest’ through government-led interventions as part of the ‘national development’ process.” The state wants land to be titled to facilitate its commodification while the mass of the peasantry stands to lose from this very commodification.

As Ugandan academic Mahmood Mamdani noted, the commodification and marketisation of land works in favour of those who can afford to purchase land, but of the poor peasant? Mamdani reminds us that if “you could not afford to buy land in the first place, you could still claim land ‘customarily’, in your ‘home’ area, from your ‘customary’ chief, as a ‘customary’ right, under ‘customary’ law”. Security of tenure is built into customary law. A peasant doesn’t have to have a land title to make a living off the land. Marketisation, privatisation, and commodification of land erode this security, leaving peasants more vulnerable to loss of land and therefore livelihood. The increasing marketisation of land, characterised by rapid titling of land, is followed by eviction of producers who lose the right to work the land and in the case of Sudan discussed next, forcible displacement and relocation of entire communities. In this case, the victims have been poor peasants, communities who use a customary land system but do not have written titles, agro-pastoral communities, nomads and other trans-boundary communities who move around seasonally.

Impact of laws

Two laws in post-independence Sudan strengthened the state’s control over land: the Unregistered Land Act (1970) and the Civil Transaction Act (1984). These laws facilitated elites to purchase rural land at relatively low prices, with profound implications for Sudanese small farmers, peasants, and pastoral communities. The laws had the greatest impact on land held by customary authorities, accessed collectively by virtue of being a member of an ethnic group in the region. Those who were not resident on the land could secure the right of passage through the land or grazing rights from communities who lived on the land. In the region of Abyei, now on the disputed border between Sudan and South Sudan, the agro-pastoralist Ngok Dinka share the land with the nomadic Missiriya, who graze their cattle in the area during the dry season. The same system worked with the Baggara pastoralists who moved from Darfur in western Sudan, through Kordofan in the south of Sudan and into Bahr el Ghazal in western South Sudan.

The 1970 Act was justified on developmental grounds, to aid the expansion of the agricultural sector, specifically mechanised farming, which had increased fifteenfold by 2005 according to Mona Ayoub of Khartoum University. She argues that the legislation “entitled the government to use force in safeguarding ‘its’ land and encouraging the accumulation of land by a minority of rich investors (both local and foreign).” The result was the displacement of communities, mostly agro-pastoralists, from land, often through violence. Both laws dismantled the defence the peasants, pastoral communities, and nomads had in traditional authorities, whose mandate also included the management of land. Lastly, both acts denied traditional authorities, “formal legitimacy or juridical status to traditional property rights, and implied the cancellation of all rights – and income – relating to water, land and grazing by pastoralists.”

The forceful eviction and displacement of entire communities, initiated by the passage of these laws in Sudan, has created a large population who are landless and internally displaced, without jobs, and access to basic services. According to Ayoub, “The displacement caused by mechanised farming remains a major source of grievance and conflict, reinforcing feelings of neglect, marginalisation and social repression, as well as sealing off nomadic routes, water points and pastures, fostering a culture of land-grabbing and creating large landless groups who are forced to work as precarious wage labourers or to migrate” outside the traditional areas.

The challenge faced by most communities is that communal land is not registered. For centuries, communities managed land for use by all members, to be accessed communally or through lineage. Access to land use is often more important to peasants than titles. For pastoral and nomadic communities, this is more important given their seasonal movement. They need the right to use the land for grazing and water. Traditionally they have shared the land with sedentary farmers and other pastoralist groups without resorting to titling it.

Under the Unregistered Land Act, unused and unregistered land is deemed unoccupied and hence subject to government takeover or, as frequently happens, sold to investors. These can then be expropriated in the “national interest”. This is justified as a means to modernise agriculture and the economy more generally, mimicking some of the colonial discourse on conquest.

The law prohibits any recourse to the legal system by peasants and those who have been forcefully evicted or displaced, further complicated matters. The laws confer on the government ownership of all unregistered land on the one hand and remove legal redress by users of that land. This means, “No court is competent to deal with any suit, claim or procedures on land ownership against the Government or any registered owner of investment land allocated to him. In short, the interests of the regime and its supporters are beyond the law,” according to Yoanes Ajawin and Alex De Waal. The lack of a legal channel increases the use of violence as a means to seek redress, as has happened in Abyei, Blue Nile and South Kordofan.

The issue raised by land grabbing touches on communities’ rights to use their land. The challenge for many states in Africa is how to protect the rights of the masses and promote social justice and land equity in the face of commodification and the growth of regimes based around private property and market forces.