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Yuezhou Yang

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Property Institutions and State Capacity: A Comparative Analysis of Chinese Agricultural Projects in Zambia

YUEZHOU YANG 

LSE-Fudan Global Public Policy Hub, The London School of Economics and Political Science, London, UK

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ABSTRACT *A long-standing literature argues that African states have weak capacity, especially in regulating land. Increasingly, scholarly work on foreign land acquisition in developing countries recognizes that the African states and subnational actors have played an important and diverse role in (re)structuring access and control over land and natural resources. I contribute to this scholarship by focusing on the role of African property institutions and propose a land tenure regime theory as the mechanism through which foreign agricultural projects and African state capacity interact. By process-tracing three Chinese agricultural projects in Zambia as typical cases, I show that Zambian state structures investment strategies of Chinese investors through different configurations of rule of land access, transfer and control in each LTR. Furthermore, Zambian state capacity in enforcing contract and projecting infrastructural power can be reinforced or tested through investing CAgriIs in different LTRs. My findings challenge the ‘weak state’ argument and raise important questions of how African governments should approach rural development on customary land.*

KEYWORDS: China in Africa; agricultural investment; African state capacity; property institutions; land

1. Introduction

In the ‘land grabbing’ debate, much has been written about private sector grabs land for agriculture. One view stresses the weakness of African states and especially their ineffective legal and institutional frameworks in regulating powerful foreign corporate forces in large-scale land acquisition (Anseeuw, AldenWily, Cotula, & Taylor, 2011; Arezki, Deininger, & Selod, 2015; Cotula, 2012). According to this view, limited state capacity creates a regulatory deficiency in the rural areas outside of the state’s infrastructural power where large-scale agricultural investment projects may take place. Some studies suggest that foreign land investments ‘often exacerbate the weaknesses of land governance systems’ (Lay et al., 2021, p. 12). Some scholarly work on Chinese land investment in African agriculture draws heavily on the ‘weak state’ arguments from the ‘land grabbing’ debate and emphasizes the power imbalances between parties in land deals (Margulis & Porter, 2013).

Correspondence Address: Yuezhou Yang, LSE-Fudan Global Public Policy Hub, The London School of Economics and Political Science, London WC2A 2AE, UK. Email: y.yang91@lse.ac.uk

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The opponents of this ‘weak state’ view call for close investigation and dissection of the state to understand the politics within state institutions (Manda & Banda, 2023; Manda, Tallontire, & Dougill, 2019), and the relationships between multiple political and social actors in shaping patterns of foreign investment in land (Wolford, Borras, Hall, Scoones, & White, 2013). In this vein, some scholars explore the nature and motivations of African domestic actors in shaping Chinese land acquisition processes. For example, Brautigam (2009, pp. 259-265) highlights the clash of interests among government of Sierra Leone, local land holders, and Chinese investors in relation to a sugar project. Porsani, Börjeson, and Lehtilä (2017) reveals how political party affiliations distort compensation and benefit distributions to local land users in a Chinese invested rice project in Mozambique. Meanwhile, Cook, Lu, Tugendhat, and Alemu (2016) and Jiao (2015) observe how non-state actors in Ghana and Nigeria negotiate with Chinese migrant farmers to grant the latter land access.

However, critical analysis of how systematic variations in national and subnational land governance have shaped interactions between authorities and foreign land investors remains limited (Schoneveld, 2017). This includes how the subnational variations in land accessibility shape initial locational choice and size of investment projects (Giger et al., 2020). When local resistance against land investment happens, how patterns of authority over land control determine the political salience and scale of the contestations (Boone, 2015), as well as effectiveness of global governance mechanisms to safeguard land user rights and mediate conflict (Dieterle, 2022). Less is written about the implications of these interactions for host state institutional development and capacity in land regulation (Lavers & Boamah, 2016). Likewise, China-Africa scholars have not given due considerations to the way in which African land governance affect patterns of Chinese land investment, nor have assessed the outcomes of investment in institutional development terms. The primary objective of this paper is to investigate the interactive processes of Chinese agricultural investments (CAgriIs) and host state capacity building in land governance. To do this, I ask two related questions: How do land governance rules shape CAgriIs in Zambia? How do these CAgriIs affect state capacity in land governance in Zambia?

I develop a *land tenure regime* (LTR) argument as the mechanism through which foreign agricultural projects and African state capacity interact. I argue that Zambian state structures investment strategies of Chinese investors through different configurations of rule of land access, transfer and control in each LTR. Zambian state capacity in enforcing contract and projecting infrastructural power can be reinforced or tested through investing CAgriIs in different LTRs. I use three large-scale CAgriIs in Zambia as typical case studies to test the LTR argument. I argue that the investment strategies of CAgriIs are adjusted according to different configurations of three aspects of land governance rules – land access, transfer, and control. Chinese investors have preferred private leaseholds over the other two types of land tenure. In terms of model of investment, Chinese investors have preferred commercial farming on private leaseholds, special farming zone development on government leaseholds, and contract-farming arrangement on customary tenure. I further reflect in each case the way in which CAgriIs can either reinforce existing power relations or extend state capacity in land regulation, through two key state functions – contract enforcement and territorial reach. Thus, through LTRs, CAgriIs are both shaped by Zambian land tenure systems and have implications on the development of land institutions in Zambia.

The rest of the paper first discusses the theoretical framework and elaborates my LTR argument in Zambia. After a description of methods and case selection strategies, I present three detailed case studies, one case in each subnational LTR in Zambia. This is followed by a discussion that compares the three cases and situates the findings in the literature. I conclude with policy implications, and theoretical and empirical contributions.

2. Land tenure regimes and state capacity in Zambia

2.1. *Land and state capacity: authority and power*

Agricultural projects, especially those in large-scale commercial production, take years to launch and develop. Therefore, foreign land investments in agriculture should not be viewed as

one-off land acquisitions taking place in a static institutional environment. Over time, investors find themselves in constant reactive mode to (re)assert their land control and (re)legitimize their landholdings vis-à-vis land claimants (state, communities, individual landholders) (Gagné, 2021; Maiyo & Evers, 2020). In order to systematically investigate the dynamic processes of CAgrIIs, I develop an LTR argument to explain the mechanisms through which CAgrIIs interact with Zambia's state capacity in land governance.

Firstly, I understand the nature of land tenure through the lens of power and authority: Who has the authority to regulate land acquisition and settle disputes in particular settings (Berry, 2017; Lund, 2002)? Building on Lund (2008) and Boone (2014, 2015), I define property institutions in rural Africa as political institutions that produce different socio-political structures and economic orders across space and time. In particular, Boone (2014) conceptualizes two contrasting authority-based LTRs – statist and neocustomary LTRs.¹ The former describes land governance administered and allocated directly by the central state (statutory tenure), while the latter describes land governance mediated by neotraditional leaders (customary tenure). Through these authority-based rural property institutions, colonial and postcolonial governments in Africa have created and upheld patterns of political control over territory and their populations.

I update Boone's (2014) conceptualization of African property institutions with three key concepts from the theory of property rights – land access, transfer, and control – to analyse how LTRs influence the investment strategies of agricultural projects through the three aspects of landholding and use. Land *access* refers both to the right to use land, as well as the authority and power to define foreign land access (Sikor & Lund, 2009). While the access to statutory tenure is predominately defined at national level differentiating between citizens and foreigners, customary land is granted as entitlement based on 'local citizenship' in an ethnic homeland (Boone, 2014, p. 33) or accessed through informal sales or rentals (Chimhowu & Woodhouse, 2006). In the process of *transferring* land rights to foreign investors, a more exclusive and sometimes alienable land right is reinforced (in statist LTRs) or created (in neocustomary LTRs). The process of excluding other (legitimate) land claimants alongside land transactions incubate land contestations. Especially on customary land, land tenure literature argues that monetarised customary land transactions do not free purchasers from 'duty of gratitude' to their hosts, i.e. the autochthons (Chauveau & Colin, 2007, p. 75). This imposes a continuous challenge of land *control* after the completion of the initial transactions. Land laws and regulations are made by state legislatures and judges, but the interpretation and enforcement of land rights are conducted by local institutions and are carried out by local courts, administrative structures, and police (Alston & Mueller, 2008; Joireman, 2011). Therefore, foreign investors need both formal judicial and informal means to resolve land disputes and enforce their land claims. The different configurations of these three aspects of land governance rules can structure the strategies of foreign agricultural investment in terms of locational choice (land accessibility), model of investment (land transferability), and contract enforcement mechanism (land control).

Secondly, I understand the state power through Michael Mann's territorial centrality view: the state is 'a *place* – both a central place and a unified territorial reach' (Mann, 1984, p. 198). Infrastructural power, which includes among other things the territorial reach of the state (Mann, 2008; Soifer & Vom Hau, 2008), represents 'the capacity of the state actually to penetrate civil society, and to implement logistically political decision throughout the realm' (Mann, 1984, p. 189). It is in this vein of understanding the state power, that scholars argue that 'land deals are nothing more (or less) than transformations in the ground on which states are formed' (Wolford et al., 2013, p. 194). Historically, land first came to be claimed as *de facto* property rights with the development of agriculture, and farming, tilling, seeding, and harvesting came to be associated with possession (Krier, 2009). Furthermore, Lavers and Boamah (2016) argue that agricultural investments can help transform the state's infrastructural power by changing patterns of authority over land from neotraditional leaders to central government. However, if

investors make land deals with the neotraditional leaders directly and bypass central agencies, agricultural projects may reinforce the power and authority of neocustomary LTRs (Lavers & Boamah, 2016). Thus, state capacity in enforcing contract and projecting infrastructural power can be reinforced or tested through agricultural projects.

2.2. *Argument: agricultural projects interact with state capacity through LTRs*

To summarize above, I theorize that African states structure investment strategies of foreign investors through different configurations of rule of land access, transfer and control in each LTR. African state capacity in enforcing contract and projecting infrastructural power can be reinforced or tested through investing agricultural projects in different LTRs. Below I demonstrate the LTR theory in Zambia.

The Land Act of 1995 (henceforth, the Land Act) upholds the bifurcated tenure system of ‘Customary Land’ vis-à-vis ‘State Land’, which was a historic artifact of British colonial indirect rule (Baldarelli, 2018, p. 95).² State Land is ‘land which is not situated in a customary area, which is not a tenure type but a residual concept for non-customary tenure’.³ In this paper, I use the terms ‘private leasehold land’ and ‘government leasehold land’ to differentiate between privately-owned leaseholds and government-administered leaseholds in the State Land category. Both are statutory tenure types administered and allocated directly by the central state. From the beginning of the 1990s to 2021, land in private ownership was accessible to non-Zambians, either as permanent residents or qualified investors, with 99-year renewable and transferable leasehold tenure, which was defensible in state courts.⁴ The Land Act attempted to reduce all bureaucratic hurdles and turn titled land transactions into mere formalities in via the state regulated land market, whilst instituting increasing scrutiny over state expropriation of undeveloped property (Brown, 2005, p. 86), and providing dispute resolution at the Land Tribunal (Mushingi, 2017, p. 17).

By contrast, government leasehold is often open to more selective groups of foreign investors who may meet certain qualifications and invest in specific national development projects as required by the Government of Zambia (GoZ), such as farm blocks and special economic zones. The allocation of government leaseholds is determined by political authorities, where investors negotiate with state agencies in search of land transaction agreements, usually in non-transferable land use rights. Since the central state operates as the foreign investors’ landlord, investors remain dependent on state support and need to win government favour to maintain control over land (Gagné, 2021; Vermeulen & Cotula, 2010).

The Land Act prohibits foreigners from accessing and transferring land directly in Customary Areas (Sitko, 2010). Instead, foreign investors can *convert* customary tenure into private leaseholds if the purpose of the land use is ‘deemed to be of community or national interest’ (Brown, 2005). Similarly, the creation of abovementioned national development projects requires customary land conversion to government leaseholds (Manda & Banda, 2023). The Zambia Constitution and the Chiefs Act 1994 recognize neotraditional leaders as rightful authorities to administer, allocate land and adjudicate disputes within their customary jurisdiction.⁵ Thus, state-recognized chiefs and local authorities play an indispensable role in the conversion of customary land into statutory leaseholds (Sichone, 2012, p. 152).⁶ Once the conversion is completed, the land will be alienated from the customary jurisdiction and the central government will replace neotraditional leaders to allocate land rights and enforce contracts.

Consequentially, such customary land conversion will incrementally increase the central government’s territorial reach and authority (Nolte, 2014, p. 702), by eroding the prerogatives of chiefs. This can potentially unleash power struggles between the chiefs and the central government. Local Government Act of 2019 shows GoZ tries to incorporate chiefs as part of the district councils to coopt chiefs to facilitate state-driven land conversions (Manda & Banda, 2023). However, ever more competitive electoral contests make chiefs important political allies from

whom political leaders seek support to build ethnic and multi-ethnic coalitions. One common means used by politicians in control of the Zambian state is to cede local power to chiefs, strategically devolving authority in land allocation to local authorities (Baldwin, 2013). In face such power struggles, foreign investors may find themselves at the losing end in their attempts to convert customary land.

My LTR argument comes up with the following hypotheses regarding the way in which the interactive processes of CAgriIs and Zambia's state capacity building in land governance will play out:

- a. CAgriIs on private leasehold land are likely to be land-based commercial farms, which reinforces state authority over the delimited territory.
- b. CAgriIs on government leasehold land are likely to be associated with national development projects. Since the land used to create these projects is often newly converted from customary tenure, CAgriIs can help transform the state's infrastructural power by expressing state authority over land – providing basic infrastructure and making local territory legible at national level.
- c. CAgriIs on customary land are likely to make farming arrangements with customary land users that avoid investor-led customary land conversion. Such farming arrangements may reinforce neocustomary authority.

3. Methods and case selection

During four months of fieldwork in Zambia, November-December 2018 and June-September 2019, I collected information on 50 CAgriIs through 96 qualitative interviews.⁷ Interviews of different actors in the land sector were conducted as follows: central state agents (n = 18), neocustomary leaders (n = 3), research and civil societies (n = 14), Chinese communities (n = 54), and other agribusinesses (n = 7). Interviews were semi-structured: I used guided questions to gather information systematically on the investment project attributes, but left the rest of the conversation open. To mitigate the shortcomings of interviews as a method of descriptive data collection, especially in terms of objectivity (Kapiszewski, MacLean, & Read, 2015), I gathered different perspectives on the same investment project from project owner/manager(s), peer Chinese investor(s), and Zambian informant(s), and triangulated interview data with secondary and grey literature.

Overall, I documented 50 CAgriIs in Zambia, forming a case database.⁸ 41 projects were land-based agricultural investments that were still operating when I left Zambia at the end of September 2019: 37 projects were located on private leasehold land, 1 on government leasehold land, and 3 on customary land (Figure 1). I selected three projects as typical examples of the dynamics of property relations between CAgriIs and the subnational property institutions in Zambia (Figure 2). By exploring these typical cases, I can probe the causal relations between LTRs and investment strategies as well as between agricultural projects and state capacity (Gerring, 2016; Seawright & Gerring, 2008).

In terms of analysis, I followed principles consistent with focused structured comparison (George & Bennett, 2005). I analysed the three cases in response to the two research questions, thereby making systematic comparison. In each case, the names and any identifiable information about the company and interviewees are anonymized.

4. Case studies: Chinese agriculture projects and Zambian state capacity

4.1. Large-scale commercial farm investment on private leasehold land

In 2018, a Chinese private company Kakalamba purchased a 3000 ha, established commercial farm, Chongwe Farm, with 13 million US dollars (USD) in the midst of the National Land

	Operating (in 2019)			Operating Total	Other status
	Small	medium	large		
Private	5	19	13	37	1 (sold) 2 (aborted)
Government	1(MFEZ factory mushroom cultivation)		1 (FB)	2	1 (bidding) 1 (aborted)
Customary	1		2 (contract-farming)	3	1 (land conversion proposed) 2 (land conversion failed)

Figure 1. Chinese agricultural projects in Zambia: status, land size, and location.

Policy (NLP) review. The farm is located along the Great North Road, in the east of Lusaka city and bordering Chongwe district. The land transaction deal was negotiated privately between the landowner, a Danish national, and the company shareholder and farm manager, Mr. Nan. The title deeds transfer agreement was endorsed by the Commissioner of Land.

In 2016, Kakalamba entered the Zambian market as a construction company, only to find construction businesses were stalled due to Zambia's high level of indebtedness.⁹ Yet instead of exiting the Zambian market, Kakalamba saw long-term growth potential and decided to diversify its investment projects to get through the downtime. Mr. Nan, the manager, said, 'Kakalamba will stay and develop with Zambia for very long time'. He explained, 'Everyone knows Africa is the future! Zambia is preferable due to its political and economic stability' (Interview, 2 July 2019). At the time, Kakalamba considered Chongwe Farm mainly for two reasons: firstly, agriculture was the most secure, stable, and sustainable investment in Zambia; secondly, agriculture was 'in the spirit of development' which could be good for corporate social responsibility. Additionally, Mr. Nan believed the estimated land value of Chongwe Farm would continue to appreciate.

Similar to Kakalamba's motivations, I found another 12 medium-to large-scale agricultural land acquisitions by Chinese private companies between 2010 and 2016, whose main businesses were in Zambian trade, construction, or real estate sectors. For these Chinese private investors, purchasing private land was a way to diversify their portfolios and reduce risk, because private leasehold land in Zambia with secure property rights protected by the separate judicial system seemed like a safe asset to invest in. This perceived private property security was restored by the Movement for Multiparty Democracy's political manifesto and market-oriented landreform since the 1990s (Baldarelli, 2018, p. 101).

However, the NLP draft of 2017 seemed to weaken foreign investors' perception of their private leaseholds in Zambia. Promoting an interventionist ideology, the Patriotic Front (PF) emphasized a greater role of the state in regulating private sector (Hallink & Siachiwena, 2023). The PF government's NLP draft 2017 promised to put heavier restrictions on foreign land acquisition and increase state control over private leaseholds. Facing policy uncertainty, few Chinese investors remained positive, 'GoZ is civilized and rational... It would let investors extend their tenure after 25 years as stated in the NLP draft' (Interview, 17 July 2019). Many more, especially those who had not fully developed the land acquired, attributed their anxiety and hesitancy to invest further in agricultural land to the policy uncertainty, 'Since the NLP draft signalled the intention to tighten down land tenure for investors, my company has stopped purchasing new land' (Interview, 31 August 2019).

(a)

LTR type	Statist		Neocustomary
Land rights	Private leasehold	Government leasehold	Chieftaincy customary tenure
	<ul style="list-style-type: none"> ▪ Zambia private leasehold land (90s-2021)^a 	<ul style="list-style-type: none"> ▪ Zambia government leasehold land^b ▪ Zambia private leasehold land (2021-)^c 	<ul style="list-style-type: none"> ▪ Zambia customary land
Cases ^d	<ul style="list-style-type: none"> ▪ Chongwe Farm invested by Kakalamba in 2019, 3000 ha 	<ul style="list-style-type: none"> ▪ Northern Farm Block EPC +F by SOEng Ra in 2017 and MOU on further agricultural investment, government lease of 140,000 ha 	<ul style="list-style-type: none"> ▪ Eastern cotton contract-farming invested in by Tonge Zambia in 2003, contract area 40,000-50,000 ha

(b)

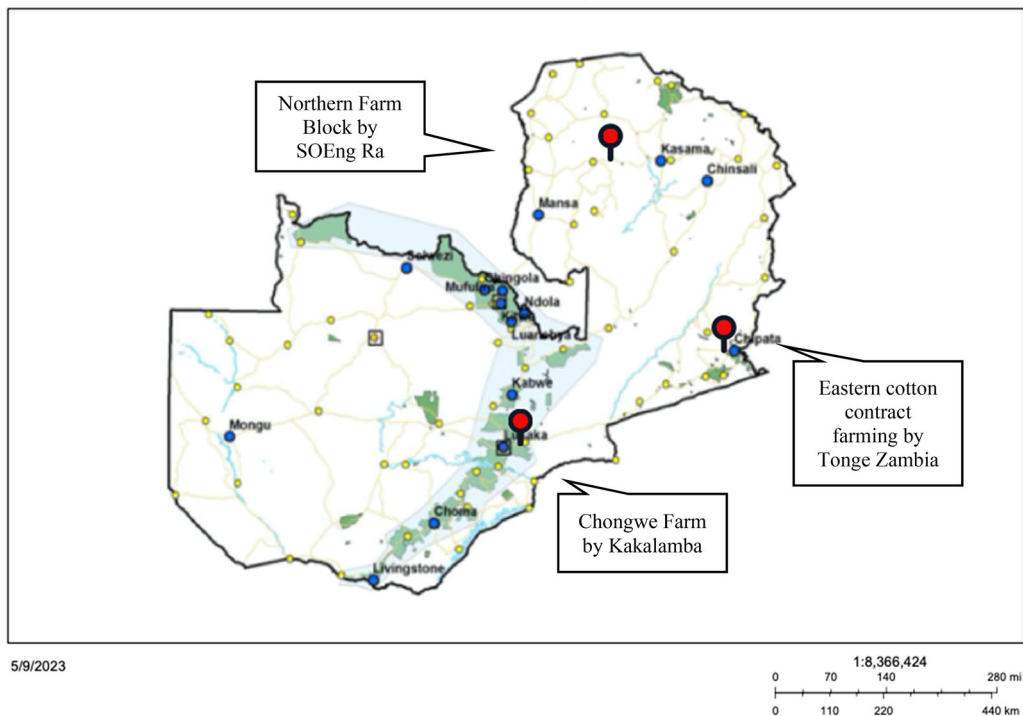


Figure 2. (a) Land tenure regimes and case studies in Zambia.

Notes: a. Zambia private leasehold land (90s-2021) is legally a category of State Land under long-term private leasehold. It was privately held property from the 1990s up to the National Land Policy (NLP) 2021. b. Zambia government leasehold land is legally named State Land. It is land which is not situated in a customary area and not held privately since the 90s. c. Zambia private leasehold land (2021-): privately held property after the NLP 2021. Private landholding continues until the next land right transfer commences or tenure expires, whichever comes first. d. In each case, the names and any identifiable information about the company and interviewees are anonymized.

(b) Locations of three Chinese agricultural projects in Zambia.

Source: Author's fieldwork data on a base map that indicates the boundaries between State Land and Customary Land. Source of the base map, Figure 4 in Tembo, Minango, & Sommerville (2018).

Notes: Green shading is State Land, and white shading is Customary Land. The map illustrates the geographic distribution of the two types of land categorized in the Lands Act of 1995.

Kakalamba responded to the changing policy environment with cautious optimism. To feel more secure about its land control, Kakalamba proactively aligned its plans and narratives with the Zambian national development goals, specifically in relation to agriculture and food security. Mr. Nan sought to frame his investment in an explicitly developmental way to the GoZ and the public, stressing that Chongwe Farm produced maize and wheat to supply Zambia's domestic food market and contributed to the food security of the people. In addition, Mr. Nan believed he could further legitimize and secure his business and property using informal methods. For example, by donating to charities, sponsoring scholarships, and hosting social events, Mr. Nan represented Kakalamba as a contributor to Zambia's social development. He hoped this would promote the company's self-image and facilitate its integration into the Zambian society.

Since market-oriented land reform, private leaseholds have been easily accessible to non-Zambians with 99-year renewable and transferable leasehold tenure, which is defensible in state courts. The land access and transaction process in this case study shows the institutional framework underpinning investor choice of private leaseholds. The land control strategy in this case exemplifies investor reactions to the tenure insecurity introduced by NLP draft of 2017. In comparison to its counterparts who purchased land before 2017, Kakalamba represented Chinese investors as behaving more responsibly and productively in a changing political environment. I argue GoZ had capacity in regulating CAGriIs through tightening up rules on foreign land access, transfer, and control. These projects in turn reinforced the Zambian state control over land regulation in line with rural and agricultural developmental narratives.

4.2. The development of a special economic zone for agriculture on government leasehold land

In 2017, a Chinese state-owned engineering company SOEngRa signed an EPC + F contract (Engineering Procurement Construction and Financing model) with GoZ, with the support of the Northern provincial minister, to develop agricultural infrastructure in the Northern Farm Block (FB).¹⁰ SOEngRa had been operating in the Zambia construction sector for almost a decade, and in order to break free from the intense competition with other Chinese contractors in the traditional infrastructure construction sector, SOEngRa was actively looking for new projects (Interview, 28 August 2019). With facilitation from a Chinese broker, a meeting was arranged between the senior management of SOEngRa and the minister of the Northern provincial government in which the idea of Northern FB took shape. In the following year, both parties attended the 2018 Beijing Summit of the Forum on China-Africa Cooperation, through which President Xi pledged to support 50 farming projects in Africa and send 500 Chinese farming experts to enhance African agricultural development (Liang, 2018). During the Summit, managers of SOEngRa introduced AgriCoop, a well-known Chinese agribusiness and rural development company, to the minister. AgriCoop had signed a memorandum of understanding with the GoZ to invest in development and management of the Northern FB once SOEngRa had finished development of the infrastructure (Interview, 26 August 2019). At the time of the interviews, the Zambia Ministry of Finance and China EXIM Bank were still working on the specific terms of issuing a USD 380 million concessional loan.

The Northern FB was never opened to public bidding but only to SOEngRa for unsolicited proposal bidding (Interview, 28 August 2019), and the project was considered a win-win scenario by both parties. It was considered a win for the minister by many Chinese investors, who described the minister as 'talented', 'the one who delivers promises to his people', and having a 'promising political career' (Interview, 8 July 2019). This project would boost the minister's political career because he was able to announce a truly 'developmental' project for his people for which the FB could attract up to USD 1.5 Bn of investment and create 40,000 local jobs.¹¹ Meanwhile, SOEngRa was able to break through the stalled construction sector and contract a USD 380 m infrastructure project. I argue the process of fostering the Northern FB showcases

the opaque nature of land access, transfer and control rules on government leasehold land, which leaves great room for government agents to exercise discretionary power in the negotiation process with potential agricultural investors.

Furthermore, this case demonstrates how GoZ leveraged agricultural projects to assert infrastructural power over rural territory. Manda and Banda (2023) argue that the creation of national development projects requires customary land conversion to government land, through which the state recentralises land governance. However, comparing this case with some other FBs in Zambia reveals that land governance recentralisation does not automatically happen with *de jure* customary land conversion. Two decades after customary land was converted to create the FBs in every Zambian province, little development has occurred.¹² As customary land conversion threatens the influence of customary authorities, it may trigger long-lasting changes of control between state and customary establishments (Widengård, 2019, p. 619). Indeed, in practice, some chiefs resist such conversion and even take back the converted land and reallocate it to their subjects even if *de jure* the converted land has left the chiefdoms (Interview, 1 July 2019). For example, one Chinese agribusiness company consulted the director of Zambia Development Agency about investing in the FB in Southern Province. The manager was told that there was no FB existed in Southern Province anymore. Chiefs took back the converted land from the state since the promised FB ‘development’ had never materialized (Interview, 5 July 2019).

In contrast, with the development of infrastructure and agricultural investment to be followed, Northern FB helped transform the state’s infrastructural power by asserting the state’s presence and thus authority over land. Therefore, I argue whether the state can effectively recentralise land control after customary land conversion through national development projects, depends on how much it can materialize the promised ‘national development’. The Northern FB reveals the typical dynamics emerging between commercial agricultural projects and state capacity building on government leasehold land. The GoZ used the opaque nature of government land access, transfer and control rules to foster specific type of investment projects which helped to assert infrastructural power over rural territory.

4.3. Contract farming with smallholders on customary land

In 2011, a Chinese private agribusiness Tonge Zambia, established in 2003 in Chipata, received development finance from the China Africa Development Fund to expand its presence into Malawi, Mali, Mozambique, and Zimbabwe, operating under the same industrial chain including contract farming, ginning and spinning, oil production and sales (Interview, 13 July 2019). In Zambia, Tonge Zambia arranged contract farming with more than 50,000 farmers and reached a cultivation size of 40,000-50,000 hectares in Eastern Province to supply its cotton ginning and processing factories in Chipata, Zambia (Interview, 22 July 2019). Different from the tenant farmer or block-farm outgrower arrangements observed in Zambian sugarcane production (Manda, 2022), Tonge Zambia made *no* land transactions with its contract farmers. Farmers instead directly cultivated cotton on household plots, using Tonge Zambia financed seeds and inputs. In the harvest season, Tonge Zambia purchased cotton from the farmers and paid them with costs of seeds and inputs deducted (Tang, 2019).

Interviews with the management of Tonga Zambia reveal that such a contract farming model was a conscious choice considering the land governance in Zambia (Interview, 13 August 2019). Managers explained that, in order to run the processing plant economically, Tonge Zambia would need tens of thousands hectares of land to grow cotton. Land on this enormous scale could only be found in customary areas where foreigners were prohibited from accessing and transferring land directly but required a formal customary land conversion procedure to acquire land. Tonge Zambia assessed that such scale of customary land conversion would be too

complicated, time-consuming, and risky. Thus, it chose the contract-framing model to indirectly access customary land, without changing land ownership.

Other Chinese investors agreed with Tonge Zambia's risk assessment of land conversion. Investors disclosed that they at least had thought about customary land conversion but were put off by the complicated, opaque, and time-consuming procedure and purchased private leasehold land instead: 'chief land was very cheap. Nine and ten years ago (around 2010), there were a lot of Chinese attempting to convert chief land. However, more than 90 per cent of these attempts would lose money and get no land' (Interview, 25 July 2019). During the fieldwork, despite my best efforts, I could not identify any successful customary land conversion by Chinese individuals or corporates for agricultural investment.

Additionally, this case reveals the limited capacity of GoZ in direct land regulations within customary jurisdictions. A very common problem Tonge Zambia faced was loan repayment from contract farmers: 'When the weather is not good, as in recent years, Zambia has had severe droughts, farmers use the inputs package to grow maize to eat ... smallholders have no money to pay back ... there is nothing we can do about it' (Interview, 22 July 2019). Another common phenomenon was side selling, which would stop only when the managers and buyers built up good long-term relations with the contracted farmers (Tang, 2021, p. 9). These problems demonstrate that continuous land control over customary land use and production is limited since investors have no efficient institutional approaches to regulate and enforce their contracts with contract farmers. One investment promotion agency observed, 'Chiefs can sabotage your [foreign investor's] property and harass your business, but you have nowhere to complain. If you are in trouble with chiefs and their subjects, GoZ will not help you out but just leave you to lose' (Interview, 8 July 2019).

Overall, the final case shows that precisely due to the rules of land access, transfer and control over customary land, Tonge Zambia tried to avoid converting customary tenure and rather used contract-framing with smallholders to access customary land, which did not change land ownership. With the limited capacity of GoZ in direct land regulations within customary jurisdictions, investors relied on relational mechanisms to enforce contracts. This in turn reasserted the authority of neocustomary actors and reinforced the existing arrangements of authority over land governance between central state and neocustomary authorities.

5. Discussion: agricultural projects interact with state capacity through LTRs

The above three cases have demonstrated the interactive process between CAgrIIs and Zambian state capacity in each LTR. This section compares and contrast these processes across subnational LTRs, and discusses the results in the broader debate of land grabs and African state capacity.

The patterns of CAgrIIs were shaped by different configurations of rules on land access, transfer, and control, which varied from one LTR to another. Firstly, the locational choice of CAgrIIs coincided with investor ability to obtain land access (Giger et al., 2020). With the bifurcated land tenure system of 'Customary Land' vis-à-vis 'State Land', GoZ had different levels of political control over territory and their populations. Nevertheless, the locus of authority to define foreign land access lay at the national and central level. The policy and institutional frameworks underpinned market exchange and foreign access to private leaseholds, whilst forbidding direct foreign access to customary land. The result contradicts 'land grab' literature, especially with the view that limited state capacity creates a regulatory deficiency in the rural areas outside of the state's infrastructural power where large-scale agricultural investment projects may take place (Anseeuw et al., 2011; Arezki et al., 2015; Cotula, 2012). On the contrary, 95% of CAgrIIs located on land that were administered and allocated directly by the central state, similar to reports of foreign agricultural investments in Mozambique, Tanzania, Ethiopia (Abeygunawardane et al., 2022), Kenya (Giger et al., 2020), and Botswana (Manatsha, 2020).

Secondly, the model of CAgriIs was strongly correlated with land governance rules of each LTR. Commercial farming was used predominately on private leasehold land, while contract farming was chosen on customary land. The above three cases show that investors chose their model of investment precisely due to the rules of land access, transfer and control in each LTR. Tonge Zambia tried to avoid converting customary tenure and rather used contract-framing with smallholders to access customary land, which did not change land ownership. Meanwhile, the process of how SOEngRa got the contract of developing Northern FB shows the opaque nature of land governance on government leasehold land. Finally, the land control strategy in the case of Kakalamba, who sought to behave more responsibly and productively in line with rural and agricultural developmental narratives of the GoZ, exemplifies investor reactions to the tenure insecurity introduced by policy changes. These findings show that Zambian land governance was effective in regulating CAgriIs as regard to locational choice as well as the model of investment.

The study dissects the power and authority within land tenure institutions (Manda et al., 2019) and the complex role of African domestic actors in shaping foreign land acquisition (Schoneveld, 2017). The presence of the state is most recognizable in statist LTRs. With discretionary power in allocating and administering land resources, provincial government had great room to negotiate with SOEngRa and AgriCoop to foster the supposedly 'win-win' Northern FB project. Similarly, the central government of Rwanda has strengthened the ability to channel agricultural investments on government land to be integrated into 'government -approved and state-controlled commodity chains' in the country (Huggins, 2014). However, case studies in Mozambique show that such discretionary power can also be used by a political party (Frelimo) to create patronage networks for its party members (Chichava, 2015; Porsani et al., 2017).

The role of state power is more complex in neocustomary LTRs. On the one hand, evidence shows varieties of state actors exerting pressures on customary land conversion to create FBs and new districts (Manda & Banda, 2023). On the other hand, the discussion of the case Tonge Zambia reveals the significantly high failure rate of customary land conversion attempted by Chinese investors. The study echoes Pedersen's argument that instead of being seen as merely a site of 'legitimate theft' as land grab literature suggests, African governments also uphold land rights (Pedersen, 2016).

Debates about the role of foreign land investments on African land governance have traditionally focused on the unanimous negative impact (Lay et al., 2021, p. 12), and much less on variations within land tenure institutions (Lavers & Boamah, 2016). My study shows CAgriIs had different effects on Zambian state capacity in land governance depending on which LTR the projects were invested in. Kakalamba's commercial farm investment on private leasehold reinforced Zambian state control over land regulation in line with rural and agricultural developmental narratives. Developing infrastructure and promising agricultural investment to be followed, Northern FB helped transform the state's infrastructural power by asserting the state's presence and thus authority over land. With the limited capacity of GoZ in direct land regulations within customary jurisdictions, Tonge Zambia relied on relational mechanisms with land users as well as chiefs to enforce contracts. This in turn reasserted the authority of neocustomary actors and reinforced the existing arrangements of authority over land governance between central state and neocustomary authorities. In the more extreme case where powerful Ghanaian chiefs allocated community land to investors regardless of state recognition of these investors, the foreign agricultural projects undermined state capacity to regulate foreign investment (Lavers & Boamah, 2016).

6. Conclusion

This paper shows how the interactive processes of Chinese agricultural projects and host state capacity building in land governance vary across subnational LTRs in Zambia. I argue that the Zambian state structures the incentives of foreign investors, in this case Chinese foreign investors, through the configurations of land access, transfer and control rules of each LTR. By

changing the availability of land access, terms and conditions of land transfer, GoZ was able to regulate CAGriIs in terms of their locational choice as well as the model of investment. I further argue CAGriIs affect state capacity building in rural Zambia differently across LTRs. Current models of CAGriIs reinforce the existing arrangements of authority over land governance between central government and neocustomary establishment. Here uses three CAGriIs in Zambia as typical case studies, yet this argument can shed light on the wider landscape of changing politico-legal institutions in African countries and help to reveal everyday processes of state formation. It raises the important question of how the African governments should approach rural development on customary land (Manda & Banda, 2023). Future research could explore how foreign agricultural project interact with host state capacity building via LTRs, especially about projects happening on neocustomary LTRs which require prior tenure conversion.

Besides the timely policy contribution, the study makes two theoretical contributions. Firstly, the LTR argument developed in this paper challenges the weak African state theory prominent in ‘land grab’ literature. I show that Zambian land governance was effective in regulating CAGriIs in terms of locational choice as well as the model of investment. Secondly, I contribute nuances to the understanding of the role of African states in land and development studies literature, with rich empirical evidence, by showing whether and how the state can effectively leverage CAGriIs to assert land control. Empirically, the study provides detailed evidence-based analysis of the investment process of three CAGriIs, using extensive fieldwork data, something few have done in analysing Chinese investment in agriculture in Africa.

Notes

1. Boone (2014) conceptualizes two contrasting authority-based land tenure regimes (LTRs) – statist LTRs and neocustomary LTRs. The former is where the land is administered and allocated directly by the central state, and private property regime is a particular subtype of a statist LTR, where land allocation is primarily based on market and market is established, regulated, and enforced directly by the state. Meanwhile, in neocustomary LTRs, land governance is mediated through neotraditional leaders.
In every colony, the state asserted direct rule over some geographically delimited spaces. In white settler colonies, such as Kenya, Uganda, Zimbabwe, Zambia, South Africa, Namibia, and Mozambique, colonial governments alienated large areas from African land users to European settlers and commercial agricultural activities (Odukoya, 2017). Postcolonial states also seized control of the direct authority over land allocation and adjudication in strategic areas of smallholder settlements schemes, and zones for the creation of cities, military camps, development projects etc. In these places, the previous exiting claims, like ancestral claims or user rights, are not recognized and sometimes ‘fully extinguished’ (McAuslan, 2013).
Across colonies, the basic political objective of confining Africans within their ‘ethnic homelands’ was achieved by institutionalizing the neocustomary LTRs. This is termed ‘neocustomary’ because the territorial and administrative delineations of these LTRs were shaped and codified both by colonial governors and postcolonial governments. Colonial states delegated wide powers to their recognized local authorities, including land powers to govern their rural subjects. Independent governments also took advantage of the indirect institutional arrangements to structure land access and control, and to shape and incentivize political behaviour (Boone, 2015). Consistent with the principle of ‘ethnic homeland,’ membership in the customary jurisdiction thus conferred an entitlement to claim land access.
2. The bifurcated tenure system was first established by the 1928 Northern Rhodesia Order in Council and amended by the 1947 Northern Rhodesia (Native Trust Land) Order in Council. Consequently, land in colonial Zambia was categorized as ‘Crown Lands’ for European settlement under English Land Law of freehold and leasehold, and ‘Native Reserves’ and ‘Native Trust Land’ which confined natives to designated areas managed in accordance with local customary law (Baldarelli, 2018; Honig, 2017). Upon independence, Crown Land was renamed State Land under the Zambia (State and Native Reserves) Order. Native Reserves and Native Trust Land were merged to one category: a Customary Area under the Land Act (Honig & Mulenga, 2015).
3. Zambia Land Act of 1995, Part 1.2 interpretation of the ‘State Land.’
4. The de facto change of private leasehold in Zambia predated the enactment of the Land Act 1995. By the mid-1980s, Zambia had gone through two balance-of-payments crises, mounting public debts that grew to four times gross domestic product and making Zambia one of the poorest countries in Africa (Barton, 2016, p. 1)The Movement for Multiparty Democracy (MMD) came to power amidst disastrous economic conditions and was desperate to rebuild trust with foreign investors and attract capital. In this context, the MMD government

initiated market-oriented land reform (Baldarelli, 2018, p. 101; Barton, 2016, pp. 136-152). The National Land Policy 2021 has the potential to limit foreign land access and transfers in accordance with the Land Act 1995 (Land Portal, 2021).

5. It is termed neotraditional because, in colonial Zambia, the British colonial government merged small villages and reorganized the territory to enable governance and taxation. The colonial government sought to formalize 'indirect rule' by designating some native authorities responsible for land allocation and dispute resolution (Honig, 2017, p. 55).
6. In the customary land conversion process, multi-level gatekeepers are involved, including Chiefs, district councils, and Commissioner of Lands (Chilombo, 2021). The three key actors in the three levels of land governance in Zambia – chiefdom, district and central government – are in position to exploit the weak administrative system and create opportunities to their advantage.
7. This fieldwork was conducted with approval from the London School of Economics' research ethics review for dealing with human subjects and permissions to conduct interview with staff in each ministry in Zambia.
8. Analysis using the full set of the database is presented in an upcoming article on how LTRs structure the locational choices of Chinese agricultural projects.
9. The exact total debt is difficult to calculate. According to (Ofstad & Tjønneland, 2019), in the end of 2017, Zambia's real debt may be 15 billion or as much as 30 billion.
10. The Northern FB should not be seen as a pure investment project. Instead, the project was a typical mixed packages of aid, loans, and investment (Calabrese & Tang, 2020, p. 12).
11. News report provided by interviewees from AgriCoop.
12. The FB development program was initiated in 2002 in response to then President Mwanawasa's New Deal (Chilombo, 2021). To prepare for the FBs, GoZ sent delegates to each province, consulting with local chiefs on converting 100,000 ha land from chiefdoms held in customary tenure to the central state 'land bank' in government leaseholds. After the demise of President Mwanawasa, none of his successors showed the same interest in the FBs, and the agricultural sector in general (Fraser, 2017, p. 460).

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ORCID

Yuezhou Yang  <http://orcid.org/0009-0008-5289-1753>

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