

Registering and Administering Customary Land Rights Current Innovations and Questions in French-Speaking West Africa

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SUMMARY

This paper presents the current approaches in land tenure securisation in French-speaking West Africa. Recent socio-anthropological research on land tenure makes it possible to clarify the concepts of rights, security, and securisation. This research emphasises securisation processes and the dynamic relationships between norms, rights, and authorities. In West Africa, the stake for rural land tenure policies is to propose concrete responses to the problems facing rural populations, with an aim to economic effectiveness, social peace, and citizenship building. For this, the challenge is overcoming the divorce between legality, legitimacy, and practices by building land tenure regulation mechanisms based on shared norms. A series of approaches emphasising regulation systems or the formalisation of rights has been developed.

Tested in several countries, Plans Fonciers Ruraux (PFR, rural land tenure maps) identify and map customary land rights and lead to "land tenure certificates". While providing significant innovations, pilot projects had an overly positivist approaches to rights, which induced significant bias. In Benin, the draft bill on rural land tenure regulation includes PFRs. In the framework of the preparations for implementing this law, potential responses to these challenges have been proposed. The land tenure securisation process requires an inter-disciplinary approach and action research, with heavy involvement of socio-anthropology.

RESUME

Ce texte présente les approches actuelles en matière de sécurisation foncière en Afrique de l'ouest francophone. Les travaux récents en socio-anthropologie du foncier permettent de préciser les concepts de droits, sécurité, sécurisation. Ils mettent l'accent sur les relations dynamiques entre normes, droits et autorités, et sur les processus de sécurisation. En Afrique de l'Ouest, l'enjeu des politiques foncières rurales est de proposer des réponses concrètes aux problèmes qui se posent aux ruraux, dans une optique d'efficacité économique, de paix sociale et de construction de la citoyenneté. Pour cela, l'enjeu est de sortir du divorce entre légalité, légitimité et pratiques, en construisant des mécanismes de régulation foncière fondés

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sur des normes partagées. Une série d'approches, mettant l'accent sur les dispositifs de régulation, ou sur la formalisation des droits, a été développée.

Expérimentés dans plusieurs pays, les Plans Fonciers Ruraux (PFR) sont une démarche d'identification et de cartographie des droits fonciers locaux, débouchant sur des "certificats fonciers". Tout en apportant des innovations significatives, les projets pilotes ont connu une approche trop positiviste des droits, qui a induit des biais significatifs. Au Bénin, l'avant-projet de loi portant régime foncier rural intègre les PFR. Dans le cadre de la préparation de la mise en œuvre de cette loi, des propositions de réponses ont été apportées à ces défis. Les processus de sécurisation foncière réclament une approche inter-disciplinaire et de recherche-action, avec une implication forte de la socio-anthropologie.

INTRODUCTION²

Debates on land tenure in Africa are often confused by terminology problems and implicit evolutionist concepts. The opposition between "traditional rights" and "modern rights" is one example if one uses modern to signify "related to written law and the state": State law is then qualified as "modern law" even when the procedures it contains come directly from colonial law and are clearly obsolete for contemporary African societies!³

The coexistence and inter-penetration of "customary" and "modern" norms has lasted for decades. Local land practices and local modes of land regulation are omnipresent, although to different degrees. For a long time-sometimes for more than one or two centuries-many regions have been subject to increased population densities and/or included in long distance commodity chains. Monetarised land transactions have existed in some regions for a long time. They are spreading now, but not everywhere. Moreover, there is no automatic link between these two processes. Both processus have most of the time occurred without leading to a breakdown of customary regulation, and thus to generalised conflicts. Studies on conflicts over land convincingly show that contradictions between law and local norms, the so-called "legal plurality", create uncertainty as to which the rules are to be applied. This, combined with competition between (state, customary, new, etc.) authorities for the power to allocate land rights or arbitrate conflicts, has a great deal of responsibility for unsolved conflicts (Lund, 1999, 2001).

The current dynamics are marked by the effects of massive state-led migrations, the long term effects of structural adjustment programmes, and rising competition over land in a context of deep economic crisis and of the failure of the post-independent States. These processes exacerbate the tensions but do not change the issue. The question is not a quick transition towards a system of generalised written law fully managed by the state-which

² This paper draws on recent research and expertise in the field of land tenure, involving french, west african and european researchers. It is a result of a UE funded research projet : INCO-CLAIMS.

³ A very large body of literature in the field of socio-anthropology has covered this aspect. For a synthesis focusing on contemporary debates, see Lavigne Delville 2002.

would be unrealistic-but the construction of land policies anchored in the current social, economic and land tenure realities.

We can indeed argue that a “modern” land administration system that fits the reality of democratic states (or at least states in a process of democratisation) at the beginning of the 21st century is a system in which the state offers its citizens-all its citizens-a guarantee as to their rights that provides concrete solutions to the concrete problems they face. And, given the current socio-economic context in rural areas and the high diversity of actors, this means offering a broad set of solutions that can provide answers to the specific needs of the different stakeholders. It means building on what exists in the field, i.e. local/customary⁴ rights and regulations, embedding them in a broad legal framework to reduce the negative effects of legal pluralism without aiming to suppress it in the short/medium term. It thus means imagining new links between local and state regulations, new legal tools, and new procedures, all of which fit current local realities and thus start from existing informal land rights-even if the long term objectives of the state are to transform local rights into a private property system and enhance market circulation of land rights.

The issue of securing local/customary rights is thus at the heart of the debate. There are several ways of raising this issue and several visions of what “customary rights” are and how to secure them. In this paper, I will show how current socio-anthropological research raises the issue of land rights and what the main operational strategies currently under experimentation in French-speaking West Africa are. I will then focus on the PFR methodology. PFR (plans fonciers ruraux, “rural land tenure maps”) are one answer that aims at investigating, recording and mapping local rights in order to allow them to be acknowledged by the state and allow “land certificates” to be issued.

1. RIGHTS, REGULATIONS AND SECURITY: AN OVERVIEW

Surprisingly, the debates on land tenure frequently ignore the very notion of rights and security and suffer from numerous conceptual errors. Some conceptual clarifications would thus seem useful to begin. Here we are taking an empirical and socio-anthropological (and not a legal) view of rights and security.

1.1 Rights as Socially Permitted Actions

From a practical standpoint, **land and resources are never owned but rather rights to these lands and resources.** In economic tradition, here the word “right” is used with its empirical meaning of a set **of socially acknowledged prerogatives that come with certain obligations.** For Alchain and Demsetz (1973), “What is owned are rights to resources [...]. What are owned are socially recognised rights of action”: “... rights refer to particular actions that are authorised... all rights have complementary duties.” In fact, property rights are

⁴ I use “local” to emphasise the dynamic and hybrid character of these rights. As we will see, this dynamic is at the heart of customary rights. In most places rights, rules and/or authorities are hybrid, a product of both “custom” and state policy. Thus, the word “customary” may mistakenly evoke the notion of “tradition”. However, I will use “customary” to describe situations where the rules and/or authorities governing land clearly relate mainly to “customs” (regardless of the nature of the more or less individualised and more or less marketable rights held by farmers).

above all social relations, relations between people regarding land and natural resources, and not relationships between people and things.

Rights do not exist in and of themselves. They proceed from rules that determine who can claim this or that right and under what conditions the right can be exercised. These rules are defined as “...agreed-upon and enforced prescriptions that require, forbid, or permit specific actions for more than a single individual” (Schlager & Ostrom, 1992: 250). Thus, they define authorised and forbidden actions and the modalities of how these actions are implemented. They also define the supervision and sanction mechanisms, who can modify the rules, and how they can do so. There are no rights and rules without enforcement mechanisms, and without authorities in charge of defining rules and granting rights according to these rules, verifying the rules are obeyed, and ensuring they are implemented through sanctions. “Every property system is based on an authority system. Only an efficient authority guarantees an effective and long-lasting application of the social web of mutual rights and obligations that founds the property system” (Mathieu 1996: 41).

Concrete rights are allocated by authorities entitled to do so and according to defined procedures. They are managed and administrated by these authorities, and sometimes by specialised technical bodies.

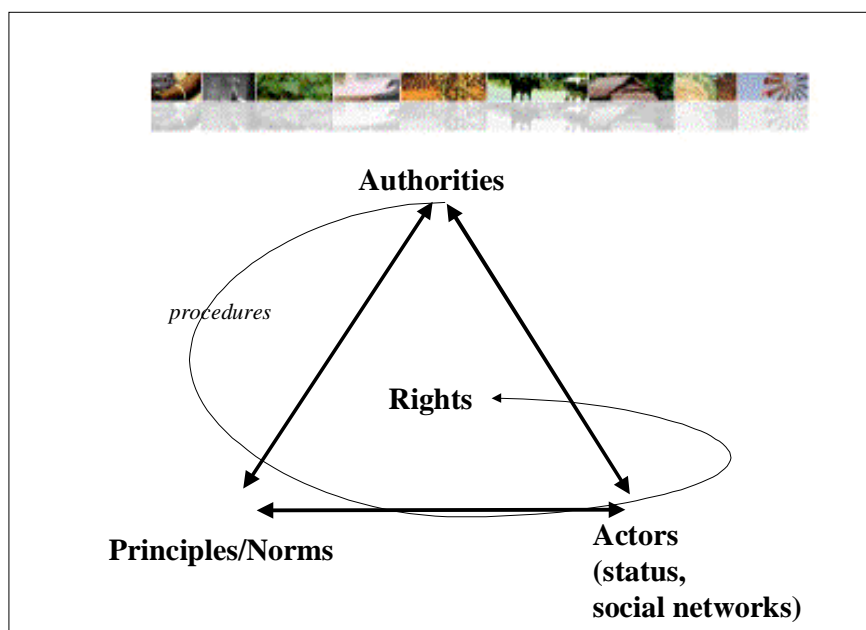


Fig. 1.

This view is very general and holds equally for both customary rights and titles: in formal law there are also general principles (the constitution), rules (the laws), authorities, procedures, and rights administration bodies. Therefore, there are no fundamental conceptual differences. There is, however, a major difference in that with customary regulations the authorities play a large role in allocating rights, access to land or resources is closely linked to the social status of stakeholders and their social networks, and rights can be renegotiated (Chauveau, 1998).

Access to land is thus a socio-political process (Berry, 1989), embedded in wealth, meaning, and power issues (Shipton and Goheen, 1992; Le Meur, 2002).⁵

One of the characteristics of customary regulations is specifically that rights are the result of negotiations with authorities at different levels (family, lineage, village, etc.) based on a certain number of principles and according to the context. It is this dynamic within the “norms/authorities/stakeholders” triangle that gives customary regulations their flexibility and dynamism as each point on the triangle can evolve.

This dynamic relationship between principles/rules, authorities, and stakeholders is in fact at the heart of the customary/local land rights dynamic: the norms and authorities can evolve more or less fully. When the context changes, the modalities for implementing rules will vary and inclusion logics (“strangers” are welcome and can be incorporated within the community) may mutate into exclusion logics. Securing rights by inscribing them in social networks, flexibility, the socio-political aspect of rights allocation are thus the fundamental characteristics of customary regulation.

1.2 Combinations of Rights: Variable According to the Context and Stakeholders

Revisiting and completing the neo-classic analysis of the economics of property rights, Schlager et Ostrom (1992) analyse the rights held by different users by distinguishing between “operational” rights (those that concern man’s actions on resources directly) and “administration” rights that deal with the organisation and management of these operational rights.

This approach is nevertheless an individual approach, which is problematic when dealing with family lands or common pool resources. Le Roy (1997) made a crucial contribution by introducing “levels of co-management”, that is to say an identification of the social stakeholders (individuals or groups) holding administration rights: individuals, social groups (family relation or residence), allied social groups, etc. Recent empirical works (Chauveau, Jacob, Colin, etc.) have enriched the grid and shown that it is operational to identify and describe the “bundles of rights” really held by the various stakeholders, even within family groups holding lineage-based land tenure heritages (See Chauveau 2003, Colin, 2004).

A Typology of Rights (as per Ostrom and Schlager, Chauveau, Le Roy)

“Operational” Rights

Access: the right to enter a given space

Withdrawal: the right to gather natural products

Cropping: the right to plough, seed, and harvest the product of one’s work

Investments: the right to transform the space (trees, terraces, etc.)

⁵ In theory, public land tenure management is supposed to be neutral and limit itself to managing transfers of clearly identified rights defined by titles. In practice we know that this is only partially the case: as Berry (1993) convincingly shows, public intervention in African land tenure has not cancelled the socio-political nature of access to rights but rather mainly re-composed the access networks around state services.

Administration Rights

Internal Management: the right to distribute and regulate use of the land

Inclusion/Exclusion: the right to determine who shall hold operational rights

Transmission: the right to determine how and to whom the above rights are transmitted or transferred

Transfer: the right to freely dispose of all the above rights (including via sale)

In any concrete situation, one can effectively identify in practice these levels of “co-management” (that is to say the social groups defining right holders for a given piece of land or resource), and identify the concrete rights the group holds as a group and that its members hold, with the possible restrictions on prerogatives held (let us clearly note that the concrete rights held in the field are nevertheless not a simple re-transcription of the grid, as one can see in the example below). This is extremely valuable for specifically describing concrete rights in complex systems.

Rights Held	Family Group Council	Head of Family Group	Right-holder within the Family Group
<i>Operational Rights</i>			
Right to cultivate an individual plot for annual cropping (but not for tree planting)	–	+	+
Right to cultivate tree crops	–	+	–
<i>Administration Rights</i>			
Right to delegate cultivation rights through a share-cropping arrangement	–	+	+
Right to delegate cultivation rights through renting	–	+	–
Right to lend	–	+	–
Right of allocating plots within the Family Group	–	+	–
Rights to sell	+	–	–
Rights to bequeath	–	–	–

Fig. 2 Bundles of rights in a family in south-eastern Côte d’Ivoire (Colin and Soro, 2004)

1.3 Land Tenure Regulation and Securisation

1.3.1. Land Tenure Regulation

I call “land tenure regulation” the set of practical decisions regarding land rights: allocation, transfers, arbitration in the case of conflicts, etc. and the ways in which these decisions are implemented. The term “regulation” emphasises the normative and practical dimension of these decisions that call on rules, authorities, and procedures. It includes elements of governance (power and capacity to define rules), management (organisation of rule

implementation), and operating (concrete implementation through adjudication, citations, contracts, land registers, surveys, etc.).

Land policy defines a formal framework (bodies, rules, procedures) for local land regulation and administration. But we know that current practices differ, with a more or less huge gap. In an empirical approach, the “local land tenure regulation system” is the ensemble of stakeholders that play a real role in land tenure decisions, regardless of their status (territorial administration or technical service agents, elected officials, customary authorities, associative leaders, judges, politicians, etc.). This kind of approach makes it possible to get beyond normative visions (general formulas such as “the law says X”, or “customary authorities manage land tenure”, that do not look at real practices) to gain concrete understanding of the stakeholders involved, the contexts in which they are called upon, and the type of actions they take. Indeed, recent works on local land tenure practices show extremely diverse situations with cases where customary powers continue to perform most local land regulation or where they are progressively pushed aside, and cases where *a priori* illegitimate—or at least non legal—stakeholders (associative representatives, agricultural technicians, or even politicians) play a considerable role in practice. Local authorities, territorial administration and/or elected bodies themselves contribute to implementing procedures that are informal (because they are not written in law) but none the less half-official (because they are validated by administrative actions). Sometimes, “elite” members of lineage groups (intellectuals, civil servants) encourage their groups to secure their appropriation rights by developing “lineage cadasters” registering settled “strangers” (Edja, 1997). Lund gives a convincing argument on the links between power and legitimacy: because certain local stakeholders think that this or that person is able to back them up in their claims that they will call on that person, and by proving his or her power to do so he or she gains legitimacy (Lund, 2002).

In some cases, such informal systems allow greater stability for institutional arrangements (conventions and land contracts). Illegal and even illicit from a strictly legal point of view, these schemes involve, in addition to the people who have an interest in the transactions, civil servants, agricultural service employees, business agents, and village chiefs (as the last link in the territorial administration chain and as representatives of local powers). In others, it can be very unfair and provoke exclusions.

For Chauveau (in Chauveau and Lavigne Delville, 2003), land practices take place in a field of interaction characterised by (i) the procedural logic of the (individual and collective) actors, (ii) the weakness of a stable and respected legal framework, and (iii) the complexity of land tenure and land use. In this context, he observes a double dynamic of innovation, through which actors try-as much as they can-to create new rules or institutional arrangements, and to stabilise certain procedures of negotiation or arbitration to warrant them, in order to be able to instil minimal predictability in everyday life and ensure minimal security of land rights which have been acquired on a longer term outside or in parallel to the market or the rules guaranteed by public authorities. Local agents of official public organisations (who act according to unofficial norms but in the name of the legitimacy which is granted to state services) and private actors who have a local legitimacy are involved in these configurations, eventually leading to a certain land securisation combining the two types of legitimacy.

1.3.2. Securisation

This reading goes hand in hand with a precise definition of land tenure security (Le Roy, Bertrand et Karsenty, 1996). Everyone agrees that *sufficient* land tenure security—the fact that their rights to land and natural resources are not contested without reason—is a condition on which producers can successfully conduct their agricultural, pastoral, etc. activities and can invest their efforts and reap the benefits of these efforts. Land tenure security is thus a *prerequisite* for economic development, a *decisive factor* in farmers' economic strategies, even if it is not the only one and not always the first (economic conditions are usually the first decisive factor).

While the stake of land tenure security is rightly emphasised, the term itself is rarely defined. Numerous ambiguities, or even conceptual errors, exist:

- In local frameworks, work produces rights to land and resources (by clearing the land, etc.). Permanent investments such as tree planting, terracing, etc. leads to stronger, more individualised, rights. Tenure security is the result of investment—which might be forbidden to some stakeholders—but investment is not the product of security.
- There is no automatic link between titles (or legal recognition) and land tenure security. Even informal, local rights are not necessarily a source of insecurity. If they are not socially accepted and locally legitimate, *titles may not offer land tenure security in practice*.
- *One must not confuse the security of rights with the nature of rights*: rights may be permanent or temporary, more or less far reaching, more or less precarious—and yet not be contested. When Bruce and Mighot-Adholla (1994: 3) define land tenure security as “the right, perceived by the holder of a plot of land, to manage and use his plot, dispose of its products and to enter into transactions, including temporary or permanent transfers, without hindrance or interference from any individual or legal entity”, they are not defining land tenure security but private property (which introduces considerable bias to their work)!

Land tenure security exists when these rights (whatever they are) are not contested without reason or when, in the case of unjustified challenges, legitimate rights are confirmed. This is true regardless of the rights in question, their nature, their origin, and their status under the law. From the standpoint of production, *the stake is secure access to land use rights* (offtake, use, investment) and not ownership as such. Private property is only one type of right. From the standpoint of inheritance, *the stake is control over family property and its transmission, and control over the granting of land use rights*.

The securisation approach thus makes it possible to:

- reason in terms of *security of access to productive resources*, without a need to foresee in advance the *nature* of these rights over the resources or their *legal status*. The question of land tenure security (vital for production, and a condition for social peace) can thus be addressed independently of the question of ownership (and in all cases independently of

the legal status of these rights). This makes it possible to take into account a wide range of existing rights: so-called “customary” rights, but also legal rights (titles, use permits, etc.) and hybrid rights (users installed by the state without legal status, customary lands purchased, etc.);

- emphasise the *securisation process*, that is to say the *process by which rights are allocated, validated and administered, and by which conflicts are arbitrated*. This places the questions of *institutions* (norms, authorities) and the links that exist between rights and (*customary, neo-customary, state, etc.*) *authorities* at the heart of the debate. It is equally valid for rights acquired in the framework of customary regulations and state regulations and touches the heart of the land tenure issue in Africa.

In a context of legal pluralism where legal norms differ from or oppose locally acknowledged norms and where rights acknowledged in one approach may be illegitimate in the other, real land tenure security can only be ensured by combining *internal* acknowledgement (that is to say, in relation to norms accepted locally within the community of social group concerned) and *external* acknowledgement (that is to say, in the eyes of the state and vis-à-vis third parties).

This requires that the various stakeholders in local land regulation systems be able to act *coherently with each other, and not in competition with each other*, that the norms acknowledged both locally by the state be a shared reference in the local space, and that the legal system integrate and institutionalise this requirement.

This approach to the issue opens new prospects. Indeed, it makes it possible to raise the question of land tenure policies from a more scientifically pertinent angle and, above all, *a more operational angle in relation to the concrete stakes for stakeholders, avoiding the conceptual problems and false oppositions that too frequently obscure debates on this subject*.

2. SECURING RIGHTS OVER LAND AND NATURAL RESOURCES: CURRENT ISSUES AND OPTIONS IN FRENCH-SPEAKING WEST AFRICA

2.1 The Contemporary Debate on Land Policy

Progress in research on land issues, national political developments, and experience drawn from recent land policy all converge towards a pragmatic vision of land issues, based on the following:

- ▷ moving away from the dichotomy between positive rights and local land systems, and starting from a recognition of existing rights, however determined the state may be to transform these rights;
- ▷ allowing farmers and herders to escape the legal insecurity in which they have been maintained since the colonial period; and
- ▷ proposing a range of securisation measures, allowing different types of actors to secure their concrete rights according to their needs, without turning registration into the only form of title.

This implies numerous judicial, institutional or technical innovations. Beyond a simplification of the registration procedure, various approaches are proposed, stressing one dimension or another, regarding concrete rights or regulation and arbitration modes.

These principles define the contemporary debate on land policy, entailing a wide scope of choices and options, according to the context and the economic challenges (investment in hydro-agricultural facilities or securisation of small holder agriculture) and social and political histories, and political choices. Choices and options which are given concrete expression through concrete land regulation framework and mechanism choices, through the composition and mandates of local authorities, through the degree of autonomy granted to local regulations, through the role of customary authorities, etc.

The major challenge political decision-makers are facing seems to rest in the role given to local land systems, and in particular local ways of regulating land:

- ▷ *in the degree of autonomy granted to local societies*: between, on the one hand, a recognition of local regulation modes that would give administrative validity (under conditions to be determined) to transactions, arbitration, etc. made according to local rules and, on the other hand, a registration of appropriation rights aimed at bringing them into the state system, transforming at the same time the specific logic of local land systems;
- ▷ *in the degree of subsidiarity in land management*: between a uniform legislation or codification supposed to define *a priori* all scenarios, and a subsidiarity in which *the state defines and organises the way rules and arbitration* are implemented at “local” level (villages, communes, sous-préfectures, etc.) by local and/or administrative authorities, in such a way that the diversity of situation is taken into account.

Even if the goal of the state is to bring local rights into statutory law, it may be realistic to think that the coexistence of local rules and positive rights will last a certain length of time. Even in France, after two centuries of private ownership and Civil Code, there are still collective rights for hunting, fishing, flood areas, mountain pastures (Carré, 1998) and room for “local rules” in the law (Assier-Andrieu ed., 1990). Therefore, in the public policy timeframe, it may be better to think in terms of coordinating land regulation modes. A land policy will be able to overcome the current dichotomy and its consequences only if it is able to take note of the current diversity of land regulation modes, and if it manages to find articulations between local mechanisms (rules, authorities and procedures) and public mechanisms (rules, authorities and procedures). This is the current challenge.

2.2 Three Main Approaches

For French-speaking West Africa, E. Le Roy (1998) identifies three types of approaches:⁶

- ▷ *Codification policies*, as in Niger, where a Rural Code was drafted, taking into account local rules and practices;

⁶ A fourth approach consists of using Land Observation Posts as a tool for defining new policy (Mali, 1994-1998).

- ▷ *Instrumental measures*, based on identification and cartography of local rights as in “plans foncier rural” (PFRs, Rural Land Tenure Maps) as tested in Côte d’Ivoire, Benin, Guinea, and Burkina-Faso;
- ▷ *Decentralised management measures* based on delegation of land management to local authorities. These measures may be implemented within the current *logique domaniale*, for natural resource management, as in most French-speaking countries. Therefore, a subsidiarity principle has to be introduced: issues are addressed at any given level only if they cannot be addressed at a lower level. The emphasis here is placed on making explicit or negotiating land or resource management rules on which stakeholders have reached a consensus. Once validated by the administration, these rules are materialised in “local codes” or “local conventions” and in the field (marking cattle tracks, etc.), and are implemented by existing bodies or by specially created committees. In countries where elected local government exists, these Codes and Conventions may be the subject of local government decrees that give them the authority of “local laws” that can be applied to third parties. However, these measures may also set the stage for breaking with the ambition of state-owned land and resources, and may turn into a heritage approach (“*approche patrimoniale*”), considering that land and resources are citizens’ common property (in the respect of rights and rules), as in Madagascar (Karsenty, 1998).

More recently, an approach aiming to formalise land transactions (sale, rental, etc.) has begun to emerge, and is being discussed in Burkina Faso (Mathieu et al., 2003), Guinea (Diallo, 2003) and Benin (PGTRN, 2001). Various studies on land conflicts reveal that, when it comes to farm land, the majority of conflicts pertain to the transfer of local rights and sales in particular, and that clarifying sale procedures and the conditions required to make them legal can significantly reduce these conflicts.

Finally, many states have launched administrative decentralisation programs at the same time, creating local territorial bodies under the leadership of elected councils. This decentralisation gives birth and strength to local management of public affairs and creates new opportunities for a local management of land and resources, while raising a number of questions (Rochegeude, 1998; Lavigne Delville, 2003).

Following different paths, approaches from the 1990s are characterised by the will to start from local realities. While an efficient land management system needs a coherent set of authorities, rules and tools, each of these approaches focus principally (but not exclusively) on one dimension of land management: appropriation and cultivation rights, the rules, or the local authorities and thus run the risk of neglecting the other dimensions. These different approaches can—and must—be combined. Most of them are evolving and are trying to tackle all dimensions, but they are often still biased by their starting point.

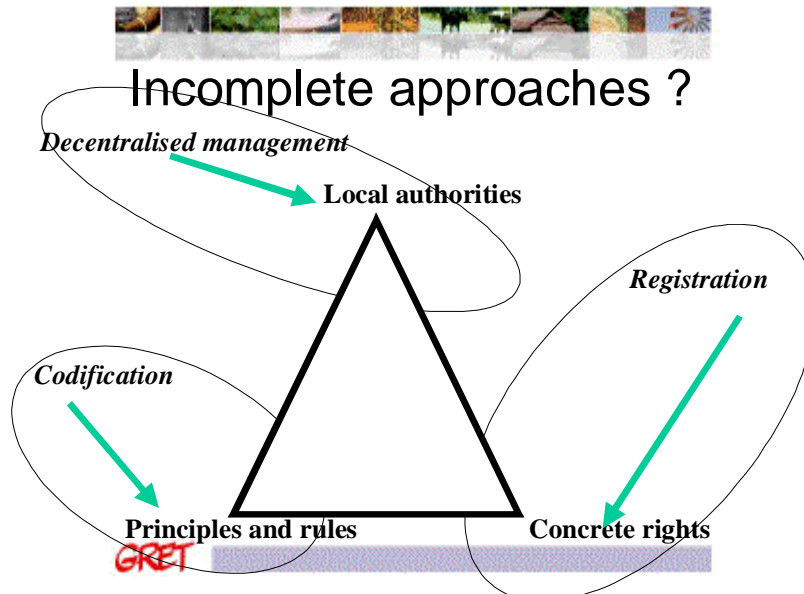


Fig.3.

2.3 A Three-Level Strategy?

The approaches above started in the field and asked, at one point, the question of adapting the legal framework. Numerous countries in French-speaking West Africa have revised their land and resource legislation since the early 1990s, more or less clearly integrating the possibility of local land and resource management. In the prospect of building an operational framework articulating legitimacy and legality, the reforms affect three inter-connected levels:

The Legal Level

- ▷ Include a positive view of local management in the law
- ▷ Eliminate the main sources of conflict in the law (e.g. access to titles through the administration only without having first negotiated the rights with farmers)
- ▷ Provide room for the negotiated transfer of management rights to local organisations (at Commune or village level)
- ▷ Create new legal land statuses and procedures for local/customary rights (certificates, community control over natural resources, sales contracts, etc.)

The Local Regulation Framework

- ▷ Clarify the institutional framework for local land governance and management (at village/camp, Commune, and district levels)
- ▷ Favour explicit negotiations on the rules to be applied for specific issues
- ▷ Make it harder to question decisions (local authorities first, write paper for each case)
- ▷ Favour institutional innovations that provide concrete answers and enhance the predictability of land conflicts.

Stakeholder Level: Stabilise Legitimate Rights and Agreements

- ▷ Help formalise negotiated agreements between stakeholders (local conventions turned into Commune rules; written contracts for land sales; delimitation of herders' routes or village limits)
- ▷ When useful/possible, register local rights themselves and create land administration bodies (mainly in periurban areas, areas with (emerging or established) land markets, weak local regulation, etc.)

3. RURAL LAND TENURE MAPS AS TOOLS FOR LAND TENURE SECURISATION

Rural land tenure maps (PFR, "plans foncier ruraux") are only one of these current approaches. While decentralised management of resources emphasises land management rules and bodies, rural land tenure maps emphasise rights. I will now describe this approach, its advantages, and the questions it raises.

3.1 The PFR Approach

"Rural land tenure map" approaches were implemented with different scopes and in diverse institutional contexts as early as the early 1990s in Côte d'Ivoire and then Guinea, Benin and Burkina Faso (Gastaldi, 1998). This "instrumental" process (which is based on right identification instruments and not on law) relies on a will to identify and map, at plot level, the existing rights, whatever their origins may be. A contradictory survey process and a flexible and effective mapping system is set up, and leads to a simplified "cadastre". The objective is to materialise existing rights, which are accepted at local level on a consensual basis. The methodology is based on plot-level field surveys in the presence of rights holders and neighbours. The socio-land survey identifies rights holders and the land survey draws plot limits onto an orthophoto. The survey record is signed by the right holder and neighbours. The process is presented as neutral since it is limited to the materialisation of concrete existing rights.

These field operations are supposed to lead to a reform of the law in order to integrate the approach, define the types of rights acknowledged by the state and give legal acknowledgement to the rights identified in the field. Local bodies (village land tenure management committees) then handle updating the information.

Tested in Côte d'Ivoire from 1990 to 1998 in the framework of a pilot operation covering several regions in the country, PFRs were then tested (in different contexts and with variations) in Benin and on a smaller scale in Burkina Faso and Guinea Conkary, each time with funding from the French Development Agency and/or the World Bank.

The PFR Methodology in Benin in the Framework of PGTRN Pilot Operations (PGTRN, 2000)

- *In Benin, PFRs have been implemented since 1993, in the framework of the PGRN natural resource management project and then the PGTRN territory and natural resource*

management project (Hounkpodote, 2000). Approximately thirty villages in 6 zones (Allada, Aplahoué, Boukombé, Ouaké, Ouessé, and Sinendé) are concerned at this time.

- The PFRs are made after informing villages, which decide whether or not to request a PFR. The first step is a land tenure diagnostic to understand the village's land tenure structure. A Village Land Tenure Management Committee is formed and brings together local land tenure authorities, literate villagers, and representatives of the various groups of stakeholders. This committee is the PGTRN's interlocutor for the duration of project operations and will afterwards be entrusted with updating the information. The committee is trained in reading maps.
- Plot surveys in the presence of the people concerned and their neighbours are used to identify and measure all plot limits; all rights holders explain their rights and what gives them these rights. All this information is written up in a survey report, which is signed by the rights holders and neighbours. Once the village's entire territory has been surveyed in this way, the information is recorded in a village land map on which all the plots are drawn and identified by a number and in a plot register where all rights holders are listed.
- In the pilot phase, the surveys are done manually and copied onto an orthophoto map which allows the farmers to see the exact outline of their plots on the photo.
- A first provisional version of these documents is given to the village and presented in a village meeting, thus allowing everyone to verify that the information is exact and that the documents do not contain any errors or omissions. For three months, the map and registers are provisional and all comments on them are noted by the committee. This is the publicity phase. After correction, the definitive documents are given to the committee.
- After all this, the information is deemed to be reliable and validated by the villagers. The information can, however, still be contested. In the pilot phase these documents have no legal value. The rights holders do not receive individual documents. Under the future law, the PFR approach will obtain official status and the rights recorded in the PFRs will lead to land tenure certificates.
- In addition to the PFRs, the PGTRN project is developing model written contracts to encourage the use of writing in land transactions (sales, rentals, loans, etc.). Signed by both parties and validated by the committees, these contracts should afford villagers (both givers and receivers) greater security when reaching land tenure agreements among themselves and limit transaction-related conflicts.
- Once the plot maps and registers have been produced and handed over to the committees, the stake becomes updating information. The maps and registers must be up-to-date if they are to serve as references when an element is forgotten or the object of a conflict. All changes in the land tenure situation (inheritance, cession of a plot, establishment of a medium-term rental contract, etc.) must be noted by the committees. Similarly, any division of plots must be noted on the plot map. Validating the transaction contracts allows the committees to keep abreast of these changes.

3.2 A Real Innovation

This approach is a real innovation:

- *conceptually*, with the pragmatic principle of starting from existing and locally acknowledged rights, which is a marked contrast with states' ambiguous (at the least) attitudes to local

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rights, and with the French-speaking legal culture in which the only “real rights” are those recorded on titles;

- *methodologically*, with a land/rights survey method that is operational, applicable on the large scale, and relatively inexpensive (approximately 7 to 10 US dollars for field surveys depending on the size of the plots); and
- in terms of *land tenure administration*, with the creation of village bodies in charge of updating information.

Made realistic by the low cost of the surveys, the principle of systematically surveying the land allows everyone to obtain a certificate whereas registration on request usually leads to the delivery of certificates only to wealthy farmers or farmers who have contacts within the government administration.

This approach can be used with various policy orientations: in Côte d’Ivoire, the 1998 law included the creation of “land tenure certificates”, a new (individual or collective) legal status granted to these customary rights. This recognition of rights is, however, temporary because these rights are supposed to be transformed rapidly—in 3 years—into individual titles. The law aims to set up a public land tenure management system in which the local committees would play only a technical role for updating information. In Benin, the draft bill on rural land tenure regulation also creates certificates but is building local land tenure management anchored in recently established communes.

Nevertheless, PFR experiences—as they have been implemented in the framework of pilot operations—show certain limitations:

- ▷ *They suffer from “agricultural” bias.* Rights over natural resources and common lands are barely taken into account.
- ▷ *They start from an overly positivist approach to rights*, implicitly supposing that one plot corresponds to one “owner” (albeit customary or collective) and thus generating sometimes serious errors in the identification of rights. In fact, the apparent simplicity of the process clashes with the complexity of describing these rights, especially in areas where land systems rely on a range of nested rights. The focus on the mapping exercise has contributed to neglecting sociological analysis of these bundles of rights (Chauveau et al., 1998; Chauveau, 2003; Le Meur and Edja, 2003). The different levels of nested rights that may exist on the field are, after the survey, boiled down to a mere differentiation between “land managers” and “farmers”. Secondary rights (women’s rights, rights regarding trees or pastures, etc.) are often neglected.
- ▷ *They under-estimate the socio-political stakes behind registration operations and anticipation strategies.* Far from making stakeholders more secure and resolving conflicts, PFR operations—like any registration process—may exclude people or provoke conflicts, especially when only some of the rights holders are able to have their rights recorded. PFR operations offer an opportunity to re-negotiate rights, prior to the surveys. Some villages, installed several centuries ago by their neighbours, thus saw their rights called into question!

- ▷ These strategies are strengthened by these methodology errors and by the fact that, *in pilot operations in anticipation of a change in laws, nothing is said on the future of the rights identified thereby leaving a high degree of uncertainty for farmers.*

Registering rights cannot be a totally neutral operation. Still, one must be able to minimise negative effects by applying an adequate strategy and methods so as to:

- ▷ clearly place the accent on rights and not on plots;
- ▷ give oneself the means to avoid being used in local power plays, through sufficient knowledge of local land tenure systems and local history; and
- ▷ include conflict resolution mechanisms before and during operations.

3.3 Three Major Stakes

3.3.1. The Nature of Local Rights and Socio-Land Tenure Survey Methods

It is relatively easy to show that the crucial stake in such an approach is the *identification of rights and not plots and their outlines*. Pilot operations took into account the distinction between “managers” (of a collective heritage) and “users”. But the owner/user distinction (or even the manager/user distinction) is not sufficient to portray embedded rights.

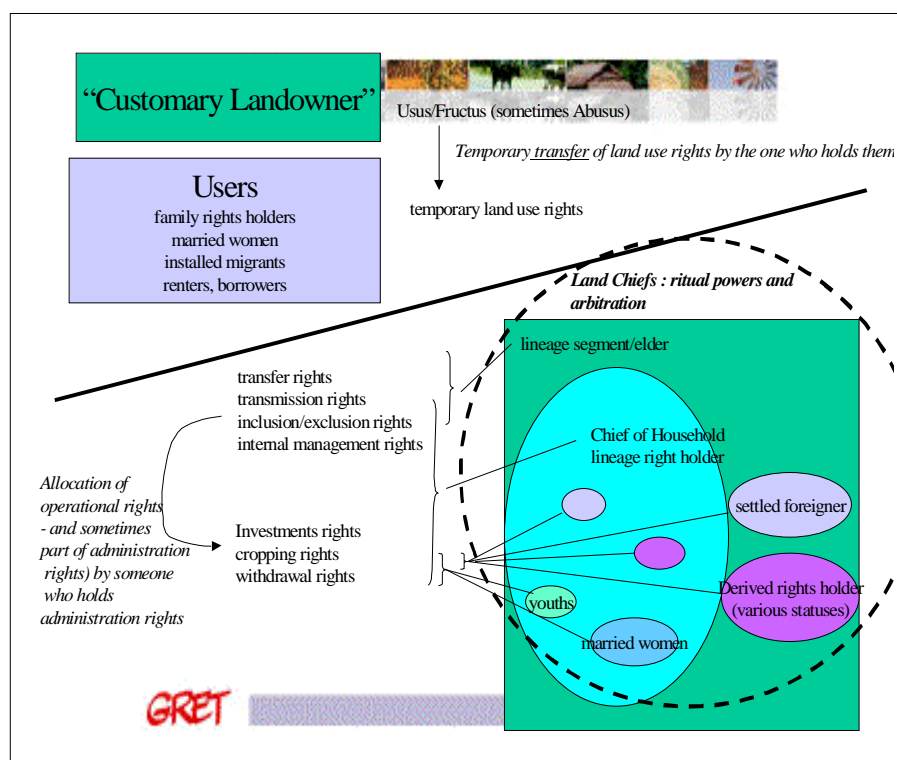


Fig. 4

Thinking in terms of “ownership” (even customary ownership) leads to selecting one level of rights and increasing these rights, to the detriment of other rights:

- ▷ at the risk of increasing precariousness instead of security, and
- ▷ causing conflicts instead of resolving them.

Registration operations can only simplify complex, negotiable rights. One must accept this, and do so in a conscious and thoughtful manner, so that the simplification does not modify the nature of the rights in question. This is a conceptual and practical challenge.

3.3.2. Land Tenure Information Management

Maintenance issues (mechanisms, cost, etc.), although decisive for the long-term viability of such plans, seem to be somehow underestimated when launching PFRs. As with all registration operations, the land tenure information generated by PFRs is only meaningful if it is kept up-to-date. If it isn't, the certificates and registers rapidly become obsolete and contribute to land tenure confusion rather than clarifying things.

Indeed, as is the case in cadastral approaches, “where private benefits resulting from a title are perceived [by producers] as inferior to the costs of formal procedures, which is likely to happen in areas with no credit market, land registers may rapidly become obsolete and useless. It seems this is what happened in peripheral areas of Kenya” (Binswanger et al., 1993).

The establishment of a decentralised, reliable, inexpensive maintenance system that is truly accessible to the population is a major stake, with the dilemma of capacities and costs:

- ▷ near the users means more offices, more agents and sometimes fewer computers, and
- ▷ economies of scale make it less accessible for people.

The viability of the land tenure administration system, at the crossroads of these two questions, must be an implementation condition:

- ▷ What are people's need for and interests in getting land certificates updated? What are the real costs to them of updating the certificates (transportation, time, formal taxes, informal payments, etc.)? What is the balance between interest and cost?
- ▷ What are the required skills and means for land administration? How can land rights administration be made financially sustainable?

3.3.3. The Fields of Validity of the Approach

Like all tools, PFRs are not universal solutions. This issue is often underestimated (Edja and Le Meur, 2003). We are getting a clearer view of the fields of validity at the crossroads of the above questions: PFRs are particularly suited in zones with stable agriculture where transactions are relatively frequent and where local land tenure regulation mechanisms are fragile or inefficient.

It is impossible to implement them where rights over land are not stable, such as in pioneer frontier zones (where the question of who has control over these spaces and the power to grant clearing rights is often highly conflictual). They take into account rights over natural resources with great difficulty.

They are possible, but less useful, in areas where land regulation is mainly customary and where customary authorities have maintained real management capacities.

Thus, PFRs are one tool among others, within a range of land tenure securisation options (*cf.* section II).

3.4 Incorporating PFRs in the Law: the Beninese Experience

In Benin, PFRs have been tested in the field since 1993 in the framework of the PGTRN territory and natural resource management project (Houngpodote, 2000; Le Meur, in preparation). Between 1999 and 2001, an Interministerial Commission (Justice, Economy and Finances, and Agriculture) mobilised a group of Beninese experts to prepare a draft bill regulating rural land tenure, the provisional version of which was validated by a national workshop in 2001⁷.

In 2002 and 2003, the PGTRN project mobilised a Franco-Beninese inter-disciplinary team (lawyers, socio-anthropologists, surveyors) to work with it on preparing for application of the law. Anticipating the vote in the Assembly so as to allow rapid implementation, this work aimed to:

- ▷ specify the PFR operation procedures for implementation in the framework of the law;
- ▷ specify the institutional framework and procedures for rural land tenure management; and
- ▷ propose implementation modalities for the law in terms of institutions, timing, financing, etc.

I had the opportunity to coordinate this work, mobilising the accomplishments of socio-anthropological research on land tenure and the various studies conducted on PFRs in Côte d'Ivoire and Burkina Faso.

The proposals were validated by a national workshop in June 2003. Adjustments proposed on part of the draft bill have delayed its adoption, scheduled for early 2005.

3.4.1. The Legal Framework

The Major Lines of the Draft Bill Regulating Rural Land Tenure

Land that is “the subject of established or acquired rights according to custom” is private land, just as registered lands are.

⁷ The legal system had not been revised since the 1970s.

Customary lands can be the object of PFR operations leading to the delivery of individual or collective land tenure certificates “providing presumption of proof of the right acquired, acting as proof until the contrary has been established before a judge”. The certificates may be pledged and used as guarantees with any credit institution. The plots covered by land tenure certificates can “be transmitted among the living or inherited, and can be the object of rental, loan, or share-cropping. They can also be subdivided.” Public registration of lands recorded in the Rural Land Map (PFR) is possible but facultative.

A very decentralised rural land tenure management system was set up, in compliance with the administrative decentralisation policy. It is attached to the Communes, with Village Committees that ensure first-level land tenure management. The Mayor issues the land tenure certificates.

All transactions must be recorded. The mechanisms for managing land tenure conflicts have been clarified, with initial arbitration locally.

The communes (and villages) have the right to define the natural resource management rules.

In parallel, a rural concession mechanism allows stakeholders who wish to develop more intensive agriculture to obtain titles, with the agreement of the rights holders in the case of customary rights over the land in question.

Thus, the legal framework breaks away from the presumption of estates for customary lands. It creates a coherent ensemble of legal statuses, with bridges between them: state and local government public and private domains, private lands with titles or with land certificates, etc. One single map support should allow these different statuses to be taken into account.

Land tenure certificates aim to secure appropriation rights, in a productive logic-access to credit, etc. The simultaneous establishment of contracts for derived use rights makes it possible to securise both plot holders and plot users. Thus it also makes it possible to lift the bans on planting trees by “strangers” (frequently a clause in local land tenure contracts, to avoid the user claiming ownership of the plot).

A very decentralised land tenure management system was set up, with an emphasis on formalising transactions and conflict resolution. This framework can function with or without PFRs-which is important because PFRs can not be established everywhere and, in any case, would take time to be established. PFR operations are conducted on the request of villages.

3.4.2. Identification and Transcription of Rights: Methodology Proposals

Reflections on rights identification and transcription methodology start from the conceptual advances above and the results of studies in villages where pilot operations have been conducted. It is a matter of:

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- ▷ taking into account the triangle made up of norms, authorities, and rights;
- ▷ better depicting the nature of the rights and the fact that they can overlap; and
- ▷ emphasising rights that must be explicitly made secure through formal recognition, without ignoring other rights.

The process of identifying and transcribing locally acknowledged rights must thus offer the most faithful view possible of rights as they are defined, perceived and acknowledged locally, while simultaneously allowing these rights to be transcribed in more generic categories and on land tenure certificates.

Thus, at this stage one should not start from a legal vision of “rights” but from a pragmatic definition: the prerogatives and duties that certain individuals or groups hold for a plot or resource. It is not customary “ownership” that is registered, but a range of land property rights with diverse “shared property” modalities where they exist. The entire approach must take into account these dimensions.

The proposals made still need to be tested and made operational in the form of a specific methodology.

Prior Diagnostic and Collection of Local Norms

Village land tenure diagnostics should make it possible to identify the modes of accessing land, the transmission rules, the forms of rights delegation, etc. They make it possible to spot local specificities which would have consequences for the operations: conflicts, special cases that require prior negotiation on how to handle them, etc.

- The entry combines the history of the settlement and identification of authorities on one hand and the description of modes of access to land and resources on the other.
- This diagnostic also specifies the **scale of pertinence of the intervention**. While the village will usually be a pertinent unit, this is not necessarily the case (overlapping lands; gaps between “villages” as administrative units and socio-land units; zones shared by several villages).
- This diagnostic enriches a **land tenure lexicon** that identifies and defines the local land tenure terms. This is not a word by word translation, but instead work making the local land tenure categories explicit, which will, for the next phases and especially the plot surveys, make it possible to hold a dialogue with the villagers based on their thought categories rather than standard terms which can cause confusion. .
- It makes it possible to establish a **collection of local norms**, specifying the rules that (except for explicit exceptions) apply to all corresponding plots. This collection makes it possible to avoid writing generic rights on each survey record and certificate as long as the records and certificates specify that the rights identified exist, unless specified otherwise, subject to the norms recorded in this collection.

Why identify local norms?

-> Identify and publicly acknowledge a certain number of acknowledged principles and general rules that give meaning to generic categories and allow for shared rules in case of conflicts

-> Negotiate how specific questions are to be handled

for ex.: How will old fields in a former village setting be dealt with? Are former holders or new cultivators of these fields to be registered as “rights holders”?

Although codifying local rules is always tricky, this approach aims to make explicit the fact that the rights recorded only have meaning in relation to these norms (“family group managing family property” does not have the same meaning everywhere). In addition, this makes it possible to avoid having to mention all the rights on certificates and avoid having the selection of recorded rights result in practice in weakening, or eliminating, so-called “secondary” rights (those of dependants, on renewable resources, etc.): the fact that a married woman or youth has rights to a plot is recorded at this level. It is not a matter of claiming to formalise everything but rather the crucial points, those that are known to touch on questions likely to be the object of dissension or conflict. This collection can evolve and be supplemented with the precedents set by conflicts treated; the rules can be modified.

Natural Resources and Common Spaces

Common spaces are identified as such during preparatory work before plot surveys. The group concerned is identified (the residents of village X, for example) as well as the person or body in charge of managing it and the conditions on which third parties can access it. The certificate is delivered in the name of the group.

In the case of rights over resources included in a family property, these rights are identified in terms of easements. Corridors, for example, can be recorded as a common good of the village and of surrounding herder groups, or as easements on the private and they cross.

Family Property, Individual Property

Plots can be the individual property of the people who cleared or purchased them. But they are frequently the collective property of a more or less extended family group: the sons of X who cleared or bought the plot; the descendants of Y by matrilineal transmission, etc. Within this group, not all the rights holders necessarily have the same prerogatives.

One single farm may, in terms of land tenure, be a composite group of plots with different statuses for which the farmer holds different rights obtained in different ways.

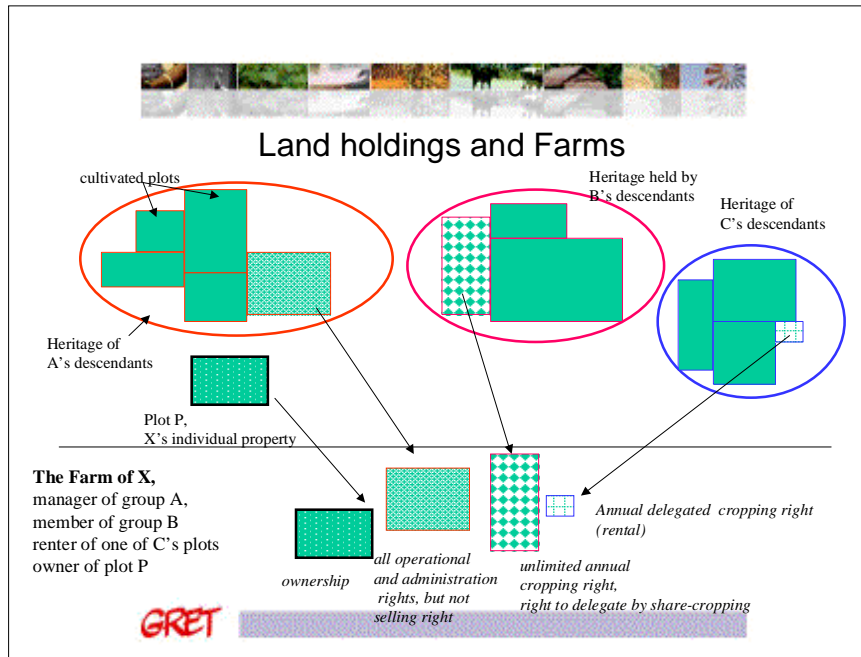


Fig.5.

For land tenure securisation, it is important to identify:

- ▷ who (individually or as a group) controls the plot and what rights are held at this level;
- ▷ who, in practice, makes the decisions (the main administration rights) concerning this plot, with what prerogatives and limitations (for example, on sale, cession to the outside; *cf.* the example in section I.2); and
- ▷ who holds the different operational rights, and why.

The survey is conducted plot by plot. When specific rights, exceptions to the generally accepted rules (*cf.* collection of norms), have been granted, they are specifically mentioned (for ex., a father gave a plot to one of his daughters). Very often, several levels of groups share administration rights: for example, the production unit and the lineage segment (*cf.* illustration in section III.2.1). The methodology does not decide *a priori* but lets the rights holders decide which level they want to formalise, and which entity they wish to emphasise (knowing that modification are possible later, single collective plots can be divided into several plots, etc.).

Derived Rights

When a farmer holds derived rights on a compound belonging to another individual or family group, the nature of these rights is identified. Indeed, recent works (Lavigne Delville et al., 2002) show that, in a given zone, there is a range of institutional arrangements by which use rights can be ceded. This range can be more or less extended, it can evolve. Standard categories—loan, rental, share-cropping—are not enough. Based on this work, it is relatively easy to identify this range of arrangements and their causes during prior diagnostics. Then,

during the plot surveys, noting the type of agreement by which the user obtained the right to cultivate the plot is hardly a problem. Farmer and plot holder are encouraged to establish written contracts, during the plot survey, so as to secure both the land property and use rights.

Survey, Transcription, Publicity

The whole process aims at translating the rights as they are lived and acknowledged into categories recognised by the law. It necessarily partially transforms and simplifies these rights. Given the complexity of rights, one fundamental issue is the way these rights are surveyed and “translated” in registers and certificates: there can be a lot of biases and transformation in these processes, leading to gaps between real rights and what is in registers, exclusion of rights-holders, new conflicts and contradictory claims, and even the collapse of the system. It is thus very important to be aware of these risks and to develop concrete and sound methodologies, to ensure minimal distortions.

The primary source of information is the survey report. It must be possible to establish the legitimacy of the rights inscribed or, in other words, provide “biographical” indications on as to the circumstances under which the “rights” in question were established before they are “coded” in grids and categories. “The information obtained from the transcriptions has little value as a collection of information, and will acquire its value -the value that will allow it to be used by stakeholders afterwards- only through the rigour and prudence of the transcriptions and a clear definition of the choices made in acknowledging certain customary rights” (d’Aquino, 1988).

The survey record must therefore record what the farmers surveyed say as faithfully as possible. The grid must include questions on the origin of rights (“from whom did I obtain them, and how?”) and on the nature of the rights (“what do I have the right to do, with what restrictions and under what conditions or with whose autorisation ?”). What is written down must be signed by the person surveyed and witnesses. Only after this, the concrete rights can be translated into more generic categories, leaving local specificities behind.

These generic categories have also to be defined starting from local categories to make sense for farmers. As we saw, the classic terms “owner” and “users” are not appropriate. An operating typology must therefore be establisheddistinguishing for example lineage property, portion of a lineage holding used by the head of the lineage segment, portion of a lineage holding used by a unit of production member of the lineage, individual owner, etc.

These generic categories can then be used in the registers and in certificates.

Ensuring the reliability of the information on rights has also implication for the adjudication process and the publicity stage: “the only information that can be validated by the populations is the collection of their declarations: the information transcribed, that is to say the translation into regional or national vocabularies of local customary land tenure situations, is work beyond the perception of the populations that they can reasonably neither acknowledge or refute” (d’Aquino, 1998). Thus the publicity phase must begin with declarations and name the transcription retained so that the content of the register is also validated.

Particular attention must be paid to these stages and the risks on uncontrolled distortions. This is a condition for the validity of the transcribed information recorded in the registers and certificates and therefore for the legitimacy of the land tenure documentation.

Certificates

The Beninese draft law does not define the type of rights that may be legalised. It only states that the rights identified by the PFR procedure are legalised and receive a land certificate. This could be seen as a risk. But it is in fact a good thing as if the survey procedure is accurate it allows for a large flexibility regarding the nature of the rights recorded:

- ▷ It can work for individual, lineage rights as well as common property resources;
- ▷ The nature of the rights can be mentioned on each given certificate;
- ▷ Either the detailed rights as recorded in the survey file, or the generic type, can be written on the certificate; and
- ▷ Local conflict resolution will manage problems of interpretation, with the help of the local norms book.

In the case of conflicts around interpretation, either the content of the certificate is sufficient or one must refer to the survey report, the only document formally validated by the rights holders and their neighbours (and the village through the publicity phase).

This choice therefore makes it possible to avoid having to define *a priori* the types of rights that can be acknowledged, while clarifying the main orientations (which is crucial vis-à-vis the outside).

4. CONCLUSION

Acknowledging and formalising customary rights are strong and complex stakes. Strong because this is crucial to combat land grabbing and insecurity, and thus to allow rural populations to peacefully and efficiently use their lands and resources, and to build true citizenship. Complex because of the very nature of local land rights, the effects of legal pluralism, and the political and economic stakes of control over land. The procedural nature of local rights—this dynamic of interaction between norms, authorities and rights—must also be taken seriously, including when the goal is to stabilise the land tenure situation.

These issues often seem underestimated, with a focus on agricultural rights, and an implicit assumption of an easy-to-record customary ownership, leading to strong biases in the process and heavy distortions between local rights and rules, and what is legalised. Yet, conceptual vagueness as to the meaning of the words “rights” and “security” confuse the debate.

Recent research on land tenure, mainly in socio-anthropology, does not merely provide conceptual answers to these issues. It also provides practical benchmarks to enrich operational approaches and make them more pertinent and more effective.

Different complementary tools and strategies are currently in process in West Africa, putting the emphasis on a sound mix between policy, local regulation and tools. Registering rights is only one way, and is not accurate everywhere. PFR examples also show that even a process recording rights cannot completely ignore norms and arbitration mechanisms. It is also important to maintain flexibility in access to the right to cultivate, which is inherent in customary management and above all indispensable for many rural populations for whom it is a vital means of ensuring their survival.

In areas where stabilised plots exist and where local management mechanisms are in crisis, PFRs can be a powerful tool to clarify the land tenure situation and increase the security of family property holders and farmers on certain conditions:

- ▷ the rights identified must really benefit from legal validation (such as certificates);
- ▷ the methods used must be adequate and not provoke excessive distortion, risking to exclude or generate conflicts; and
- ▷ a reliable and viable land tenure management system must exist.

One big issue lies in maintenance. At this time we still lack references on this issue: in Benin, local land tenure management will need to be tested when the law begins to be applied. We can think that the very decentralised framework can help keeping the costs reasonable. More over, the number of transactions to register (and thus the amount of work and the size of the teams) is quite linked with the value of the land and farmers' willing to pay for that. But land tenure information is a public good and it is therefore logical that the government also invest in this field.

More generally, these types of operation (because they are highly innovative and touches on sensitive issues) require an experimental and action research approach with strong monitoring and evaluation and a highly developed adaptability. They require an inter-disciplinary approach that mobilises socio-anthropologists specialised in land tenure along side lawyers and surveyors, for both the design (identification of stakes, intervention methods and transcription of rights, and the design of land tenure management systems), implementation (training, monitoring and evaluation, etc.). They call on recent land tenure research results and work to make these results operational, in a field where concrete answers are still in experimentation. It need thus a strong investment in applied research, training and monitoring, during experimental phases, before accurate methodologies and skills, and trained teams are available.

Such an investment may appear considerable. Yet, the vocation of such operations is to be extended to national scale: thus, it is in no way a matter of demanding a specialised anthropologist for each village, but to have the means to develop reliable, effective methods that truly respond to the stakes, and the know-how that goes with them. Beyond the design effort during the experimental phase, the stakes for extension lie in terms of socio-land tenure field survey know-how. Such know-how can be increased through practice, by including experienced and novice field agents as long as there is nearby monitoring and support from experienced specialists in land tenure socio-anthropology.

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