

Land tenure dynamics and state intervention

Challenges, ongoing experience & current debates on land tenure in West Africa

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Making Land Rights More Secure

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Why discuss making land rights more secure?

- Some level of security needed to encourage investment and productivity
- Clarifying rules and mechanisms for access to land essential for peaceful co-existence between groups
- Citizens should expect that the state recognises and guarantees their land rights

Legislation from Independence onwards

- Long-standing legal pluralism, from colonial times, makes land rights insecure
- Procedures to gain legal recognition of land rights are inaccessible to most people
- Growing competition, poorly regulated conflicts
- For many natural resources, poorly defined rules and rising demand have led to open access

- Gap between legality, legitimacy and actual practice, makes regulation of land issues very difficult and favours richer, more powerful actors

In the 1980s, growing legal recognition of private property rights

- State control & intervention put in doubt
- Economic liberalisation and SAPs underway
- Growing conflict over resources
- Two common assumptions:
 - customary rules breakdown when the stakes rise;
 - delivering land titles a key means to avoid legal dualism and encourage investment.

Emerging findings cast doubt on such assumptions:

- No simple relationship between land titles & productivity
- Customary systems no barrier to agricultural intensification and strong market response
- Local tenure systems dynamic & provide secure rights in most cases
- Individualisation and land market development underway in many places

- Conflict arises when institutions for regulation are weak or where there are multiple sources of authority
- Conflict less a product of competition for land and natural resources, and more due to uncertainty about rules for managing access

In the 1990s, innovative new approaches

- Finding ways to make existing rights and practices more secure
- Encouraging transfers between users
- Promoting adaptation of rights to new contexts and opportunities

In West Africa, five new approaches...

- Identifying and mapping rights: Rural Land Plans (Côte d'Ivoire, Bénin, Guinée, Burkina Faso)
- Codifying rules & granting legal status : Codification (Niger)
- Allocating responsibility for making and managing rules to local structures : decentralised management (Madagascar)
- Making land transactions more secure by use of written contracts (Guinée)
- Land tenure monitoring systems as a means to formulate new policy: Observatoire du foncier (Mali)

A range of legal and institutional innovations

- Home grazing lands (Niger)
- Local conventions (Mali)
- Land Commissions at Arrondissement and village levels (Niger)
- Tenure certificates (Côte d'Ivoire)
- Land registers (Comores)
- Much local rule making, committees, bye-laws, etc. tried out by projects, pilot schemes...

Decentralisation: Opportunities & risks

- What tenure role for these new elected local government structures?
- Risks of « centralisation » for many local users
- Land issues increasingly tied up in local politics and factions

Processes underway....

- Institutional and political landscape is changing rapidly
- Sectoral policy undergoing changes
- Measures partially achieved but still some hesitation by the government to « let go »

Securing land rights - a new look

- Focus on rights and obligations, not ownership per se
- Security linked less to nature of rights held, and more to their recognition, and whether subject to effective contest by others
- Focus on securing rights rather than property titles
- Examining institutions (rules, structures) which allocate, recognise & arbitrate rights and ensure they can be exercised effectively
- A range of solutions, in response to needs of diverse actors

Improve understanding of local institutions for managing land

- Rules, rights and powers: dynamic interplay
- Links between individual rights and collective management
- Rapidly changing rules, often challenged
- Local capacity to innovate and make new rules
- In places, tense relations between groups and politicisation of land relations

- Today, role of local land tenure management largely recognised :
 - based on local principles, though subject to contest & negotiation
 - involving many different interests and structures (customary leaders, councillors, technical services, local government....)
 - working sometimes in harmony, sometimes in contradiction.

- What rules & structures can offer more secure land rights, and how can government policy help?
 - Local rights or statutory legislation?
 - What structure of authority has powers over land?
 - What tools or methods to use?

Exchanging experience & debating the options

- Recent research brings out new lessons and experience with innovative approaches, their benefits, relevance and limitations
- Many new questions and issues raised
- To help take forward the process of more secure rights to land

New findings to share

- Decentralised local government and management of land & natural resources - a suitable local mechanism?
- Rural land plans & cadastral systems
- Land transactions and secondary right: how to regulate land markets?
- Pastoralism and natural resource management: establishing local control over access to resources

Key issues to examine

- How can local rights & practices be given legal recognition?
- Land tenure & agricultural policy: efficiency and equity
- Formalising rights, their documentation & arbitration - developing new skills
- Opening up public debate of land tenure policy options