

BENIN

FOOD SECURITY AND LAND GOVERNANCE FACTSHEET

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ABSTRACT

Food security in Benin is correlated to access to land and tenure security. In rural Benin, customary tenure systems are most prominent. In Southern Benin, where population density is the highest and land availability increasingly scarce, competition over land and natural resources is growing. This situation puts access to secure rights in jeopardy for groups with a more marginalized position within their community (women, younger men), while competition with herders – relying on mobility to access grazing lands, water and markets – becomes more fierce and even violent. With respect to policy, the Plan Foncier Rural (PFR) and the land certificate are tools that can prevent conflict, promote investment in land and facilitate transactions such as the leasing, sharecropping and selling of land. The certificate is also useful to facilitate access to credit, assuming that financial services are available. However, there are also political forces that are pushing towards more individual titling and the development of land markets. It is feared that the new land legislation, now discussed in parliament, may enhance tenure insecurity for many farmers who will be considered as tenants by customary authorities seeking to obtain title or sell the land. This new policy is also stimulating urban based investors, companies, NGOs and religious congregations acquiring land through customary authorities, which are then formalized.



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About IS Academy on Land Governance for Equitable and Sustainable Development

LANDac, the IS Academy on Land Governance for Equitable and Sustainable Development, aims at bringing together researchers, policy makers and practitioners in the field of land governance and development. It is a partnership between several Dutch organisations and their Southern partners involved in development-related research, policy and practice. LANDac is one of the IS Academies for International Cooperation sponsored by the Netherlands Ministry of Foreign Affairs.

About KIT

The Royal Tropical Institute (KIT) in Amsterdam is an independent centre of knowledge and expertise in the areas of international and intercultural cooperation, operating at the interface between theory and practice and between policy and implementation. The Institute contributes to sustainable development, poverty alleviation and cultural preservation and exchange.

Country expert contribution:

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1 POLICY AND LEGISLATION

1.1 Regulatory Land Governance Framework (rural land)

In Benin, customary tenure systems dominate in rural areas.

The Rural Land Act No. 2007-003 was developed following broad societal dialogue, before being adopted by cabinet and parliament. The 2007 Rural Land Act strengthened the rights status of land under customary tenure. This land became "terres privées" and has a similar status as registered lands. The Law 2007-03 makes compulsory the drawing up of a written contract in the event of land transactions (*actes de contestation*).

A land policy was developed with support of the Millennium Challenge Account (MCA). The "*Livre blanc de politique foncière*" - *décret portant Déclaration de politique foncière et domaniale au Bénin*" was validated in 2009 and approved in 2010.

Next, a draft land code (code foncier et domanial) was developed in collaboration with the Ministry responsible for urbanism and land tenure and adopted by the Government on 13 July 2011, and is currently (2012) being discussed by parliament (National Assembly).

Law	Content
2007 Rural land Act (Law 2007-03)	Legalises rural land plans (<i>Plan foncier rural</i>), introduces <i>actes de contestation</i> for registration of transactions and <i>certificats fonciers ruraux</i> .
Land policy (validated 2009, approved 2010) (<i>Livre blanc de politique foncière - décret portant Déclaration de politique foncière et domaniale au Bénin</i>)	Aims to secure rights, facilitate investment and create a market for land and real estate. The white paper discusses approaches for securing land rights, the use of state land, land information systems, efficient (decentralized) land administration, and women's access to land.
2010 draft <i>code foncier et domanial</i> approved by cabinet in 2011; discussed in parliament since 2012	Issues include the merger of urban and rural land, and status of the <i>certificats fonciers</i> .

1.2 Land Tenure Forms

Most land in Benin is customary land and without certificate or other form of more formal registration.

Land tenure forms	
Individual Property Deed <i>Titre Foncier</i>	Officially registered plot of land. Registration starts at the local government level and is completed in at the Land deed department in Cotonou.
Rural Land Certificate <i>Certificat Foncier Rural (CFR)</i>	Rural land certificate for agricultural parcels registered in the context of the PFR, as individual or collective property.
Individual Concession by Authorization	Concession granted to an individual or to a corporation through an administrative authorization.
Occupied state land	Land belonging to the State (public land) but occupied by an individual.
Untitled customary land	Land held under customary tenure, but without a deed (<i>Titre Foncier</i>) or a Rural Land Certificate (CFR);

The conventional process for land registration by an individual or company starts at the local government level and is completed at the Land deed department in Cotonou. Private land surveyors are widely available, but the process is relatively expensive and out of reach for most rural land holders.

The Rural Land Act No. 2007-003 introduced the "land certificate" (*certificat foncier*), which are registered as part of the Rural Land Plan (*Plan Foncier Rural* PFR)¹. PFR is defined as a "document (or deed) taking stock of rural land and the registered rights attached thereto as well as the right holders, in order to meet individual and collective needs for tenure security, land use planning and investment"². The PFR is a land use and tenure map which registers all primary and secondary rights over land and natural resources. Rights are supposed to be validated in presence of all land holders and users, common lands are also to be included in the map. Local governments play an important role in registration and will be responsible for issuing certificates and updating land information.

The PFR is developed as an approach for systematic registration of all rights, including secondary rights and rights over common pool resources. Methodology development started in 1993 with the support of French and German researchers (including as anthropologists and geographers). Implementation of PFR accelerated when land tenure security was selected as one of the priority themes for MCA (Millennium Challenge Account) under the responsibility of the *Ministre de l'Urbanisme, de l'Habitat, de la Réforme foncière et de la Lutte contre l'Erosion côtière*, with MCA experts and consultants, in close collaboration with local land surveyors. A budget of about USD 40 million was allocated for a 5-year program (2006-2011). In addition to the refreshing of the 41 pilot PFR established under former natural resources management projects with AFD, World Bank and GTZ funding, the MCA program embarked on supporting some 370 village PFR. When the MCA project was finalized in 2011, 294 PFR were started-up and 40 (out of 70) municipalities have received training and equipment. In addition, GIZ is working on PFR in 5 local government areas in the North and completed 60 PFR in 2011.

1.3 Institutional land governance framework

The Ministry of Agriculture is responsible for implementing law 2007-003 but lacks capacity to lead the land reform process, monitor its implementation or take over the work developed by the MCA-MCC.

Ministre de l'Urbanisme, de l'Habitat, de la Réforme foncière et de la Lutte contre l'Erosion côtière is in charge of the code foncier.

Decentralization efforts have been significant for land governance. Legislative texts were voted in 1999 (laws n°97-029, 98-005, 98-007, 98-034 of 15 January 1999) and the first local government elections were held in 2002. The commune (local government) has become a central actor in land management. Government has transferred jurisdiction from the prefecture to the commune for issuing administrative deeds in the field of land tenure (Le Meur, 2006).

1.4 Gender

Most women only have user rights to land through their male relatives (generally husband). Although policy and legislative efforts have been undertaken to promote women's right to land, customary practice continue to exclude female land ownership. Interventions suggested to facilitate women's access to land include to further strengthening of the legal framework,

¹ Pilot initiatives towards improving the governance of rural land started in 1993 supported by AFD, World Bank and GIZ. This resulted in the development of the Plan Foncier Rural (PFR or "rural land plan") that departs from existing customary rights, including also secondary rights.

² « document faisant l'inventaire des terres rurales avec enregistrement des droits y rattachés ainsi que de leurs titulaires, dans le but de répondre aux besoins individuels et collectifs de sécurité foncière, de planification et d'investissement »

combined with information and communication on women’s rights, and active policy support at the national and local level (MCA, 2008).

1.5 Foreign direct investment in land

The government of Benin is promoting foreign direct investment in agriculture and facilitates access to land titles³. No distinction is made between nationals and non-nationals in legislation and regulations on land and also foreigners can request a *titre foncier*. However, the draft code foncier (version 2011) proposes that foreigners can only acquires leaseholds for up to max 50 years.

According to the land matrix (ILC, 2012), which lists large-scale acquisitions by foreign investors, 9 deals covering over 1,040,900 ha have been stroke, all linked to agriculture. Although there is enthusiasm among investors in Benin, various farmer organisations express their worry about this rapid development and the risks for their access to land in the near future (Grain, 2010).

2 INTEGRATED WATER MANAGEMENT

2.1 Regulatory Framework

Law	Content
loi N° 2010-44 portant "Gestion de l'eau en République du Bénin	Integrated management of water resources
Law n°93-009 of 02.07.93 and the related decree n°96-271 of 02/07/96	Distinguishes state forests (<i>domaine forestier classé</i>) and protected forests (non state forests)

The *Direction Générale de l'Eau* (DG Eau) has the dual mandate of managing water as a resource (Integrated Water Resources Management or *Gestion intégrée des ressources en eau*), and supporting municipalities in the provision of drinking water in rural and semi-urban areas.

3 REALITIES ON THE GROUND

Key concerns with respect to land governance are reducing conflicts over land, and improving tenure security for groups with so-called secondary rights (women, migrants, pastoralists). There is also growing demand by “primary right holders” in both rural and urban areas, to improve the system of rights registration and the trustworthiness of land transactions. A concern of farmer organizations is that customary authorities are selling off “family land” to “outsiders”, who may either become “landlords” or leave the land idle.

Conflicts over land are frequent and partly the result of informal and unregulated land markets, where fraud is common. Conflicts between farmers and pastoralist are also frequent and sometimes violent, because the mobility for herds is becoming increasingly difficult due to the extension of farmed land.

The Draft *Code foncier et domanial* is another source of controversy. Non-state actors, programs working on land tenure and even some governmental departments have expressed frustration with respect to process used for consultation, and transparency. For example, it is hard to obtain the latest version of the *code foncier et domanial*. Points of discussion are whether Law 2007-003 is not undermined by this draft land code, because of the proposed merging of rural and urban land and the wording of articles about the process for converting land certificates in titles. Another controversial issue is the proposed establishment of a *l'Agence Nationale du Domaine et du Foncier*.

An issue of concern is that the PFRs process started with MCA funding is far from completed, even in the first batch of 294 villages. Few certificates have been issued also. Determining the

³ <http://www.mcabenin.bj/lettre-4-question-%C3%A0-qui-de-droit>

limits between villages proved difficult. There are villages that were reluctant to participate wondering about the real intentions of government, fearing expropriation for state farms as it happened in the 1960s and 70s.

There is also concern over the quality of the process, because if the consultants have not operated with care and have not been well monitored, the process may produce conflict and may cause loss of land rights for those having "secondary rights" (as these are easily "forgotten"). Moreover some users may not have been present when the PFR team was doing its work (pastoralist for example) or did not dare to claim their rights. Experience has shown also that care is particularly needed in areas where customary royalty claim that their custodian rights give them full ownership rights, making those working the land "tenants".

The PFR tool offers opportunities for massive, systematic land registration, moving from village to village, with local government becoming responsible for maintenance and updating. However, the approach developed for first-time registration is expensive, given the resources available to the government of Benin, which has no resources of its own to complete the PFR process. Consolidation of PFR and next steps is now being discussed with donors. An evaluation seems justified before "upscaling" the MCA model, including an estimation of the resources required for implementation and coordination and safeguards to protect equity and prevent loss of rights in the process.

4 RESOURCES AND OTHER INFORMATION

4.1 Related country profiles

- USAID: <http://usaidlandtenure.net/usaidltpproducts/country-profiles/benin/>
- FAO: <http://www.fao.org/countryprofiles/index.asp?lang=en&ISO3=BEN>
- FAO/Gender: <http://www.fao.org/gender/landrights/report/en/>
- IMF: <http://www.imf.org/external/country/BEN/index.htm>
- World Bank: <http://web.worldbank.org/WBSITE/EXTERNAL/COUNTRIES/AFRICAEXT/BENINEXTN/0,,menuPK:322645~pagePK:141159~piPK:141110~theSitePK:322639,00.html>

4.2 Laws, Policy and Regulations search engines

- FAO Lex (Land & NR search engine): <http://faolex.fao.org/faolex/index.htm>
- Water Lex (Water laws search engine): <http://faolex.fao.org/faolex/waterlex.htm>

4.3 Maps and Databases

- Land and soils databases/information systems: <http://www.fao.org/nr/land/databasesinformation-systems/en/>
- Water database/information systems: http://www.fao.org/nr/water/infores_databases.html
- Land and water maps and graphs: <http://www.fao.org/nr/solaw/maps-and-graphs/en/>
http://www.fao.org/nr/water/infores_maps.html

4.4 Portals and other resources

- http://landportal.info/search/apachesolr_search/benin
- http://www.hubrural.org/resultats_recherche.html?lang=fr&recherche=benin&.x=0&.y=0
- <http://www.foncier-developpement.fr/?s=benin&lang=fr>

4.5 Donor support programs

- The World Bank has tested the land governance assessment framework in Benin (2010) and undertakes a baseline survey.
- MCA has finished at the end of 2011. The Government of Benin has approached other donors for support in order to continue the work started with MCA. The Netherlands has accepted to fund a study that will be ready mid-2012. AFD, Belgium cooperation and GIZ have expressed interest in supporting a joined programme.
- Meanwhile, GIZ continues with PFRs in five local government areas and plans to cover the full territory and complete capacity development.

4.6 Civil society organizations working on land governance

Members of International Land Coalition from Benin:

- CEBEDES-XUDODO - Centre for Environment and Development Economic and Social Council - www.cebedes.org
- Réseau Béninois pour la Sécurité Foncière et la gestion Durable des Terres sbrun@mcabenin.bj charly_tomavo@yahoo.fr
- ANOPER (Association nationale des organisations professionnelles des éleveurs de ruminants du Bénin) is the national association for cattle breeders associations. <http://www.anoper.com>

Other CSOs:

- Synergie Paysanne - www.synergiepaysanne.org - is specialising in land governance issues on behalf of farmer organizations in Benin - PNOPPA (Plate-forme nationale des organisations paysannes du Bénin). Synergie Paysanne is monitoring particularly rural land acquisitions by domestic and international actors.

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