

Making land rights more secure

International exchange of views between researchers and decision-makers
Seminar in Ouagadougou, 19-21 March 2002

Tenure and how to provide security for rural communities

In rural West Africa, the gap between legislation and reality in rural areas is still a feature of the tenure issue. Generally speaking, governments pay no heed to the rules governing local tenure practices. The vast majority of rural people, lacking access to legal procedures, which are too cumbersome and costly or fundamentally inappropriate, are insecure in legal terms and sometimes in real terms, leading to conflict and deprivation of rights.

In addition to this legal pluralism, there are many different stakeholders (customary, State, political, etc.) involved in allocating, acknowledging and arbitrating in respect of rights, who act in an inadequately co-ordinated manner on the basis of different rules. Against a background of growing competition for land and resources, this can lead to conflict, as each party appeals to the rule or authorities favouring their cause. In the absence of a clear, shared understanding of the rules that are supposed to apply, tenure status has become uncertain, encouraging opportunistic behaviour and power struggles. Consequently, questions of governance lie at the heart of the tenure issue: which rules are both legitimate and legal? Which authorities should enforce them?

On the time-scale of tenure policies and whatever governments' longer-term intentions may be, different systems of rules and power will continue to exist. Consequently, it would seem both pragmatic and operational to think in terms of linking regulatory systems together, combining State and customary or local systems in an appropriate manner. Whether seen as a panacea or a default solution, local management of land tenure is vital from this perspective.

Even though governments aim eventually to transform the rights and procedures that are considered legitimate at local level (these are not necessarily customary practices, as tenure practices and regulatory systems are of hybrid origin), it would seem necessary to start by acknowledging the latter. It is therefore up to governments to "make the first move", by recognizing what exists and suggesting ways of making land rights more secure that come closer to local practices and meet needs. This can be done either by applying the principle of subsidiarity within the framework of State ownership, or by rejecting the principle of State ownership. Recent legislation in respect of both land and resources has made some partial but nonetheless genuine progress in this regard. Administrative decentralization can provide an opportunity for redefining legal arrangements and bringing about local management, but legislation on resources and tenure is currently carefully dissociated from laws on decentralization.

In fact, local land use management arrangements are a key issue, since all stakeholders actually play a role in decisions regarding tenure and renewable resources. Mechanisms and procedures, of a more or less informal nature and enjoying greater or lesser degrees of stability, do exist to regulate tenure at local level (below the lowest administrative echelon). The local administration sometimes takes the initiative of ratifying certain agreements, in accordance with pragmatic procedures which are relatively effective even if not legal in the strict sense. In a situation where the law has no answer for the specific problems faced by stakeholders, it would seem appropriate to support and strengthen this type of pragmatic mechanism.

The last ten years have seen a resurgence of interest in managing land and renewable resources in West Africa. The principle of local management is almost universally agreed, although methods of implementation are hotly debated. Some operational projects have tried to implement procedures to recognize local rights. Legislative reforms have changed the legal framework. In parallel, renewed research into land tenure has provided greater understanding of tenure dynamics and subjected a number of programmes to critical analysis.

On the basis of the progress achieved, approaches to the tenure issue are beginning to emerge that better reflect the real situation in rural areas, with governments putting forward a procedural framework that can help rural people to place their land rights and agreements on a more secure footing.

Reporting back and exchanging views at an international seminar

However, despite a large number of publications, these recent findings by researchers and consultants are still largely unknown to those directly involved in land use management. Neighbouring countries rarely share their national experience. As West Africa moves towards regional integration, information exchange and sharing of experience between French- and English-speaking countries could be extremely fruitful.

The *West African LandNet*, *GRAF* (Burkina Faso), *GRET* and *IIED* are jointly organizing an international seminar in Ouagadougou, on 19th, 20th and 21st March 2002, so that researchers and policy-makers dealing with land tenure in West Africa may get together to report and discuss the main findings of recent work undertaken on this issue, as well as to share experiences. The seminar will focus in particular on the applied research and the study of land policy carried out under the aegis of the steering committee on rural land and renewable resources and development, financed by the *French Ministry of Foreign Affairs*, in the framework of the Franco-British Land Initiative, with the financial support of the *UK Department for International Development*.

West African LandNet
Groupe de Recherche et d'Action sur le Foncier (GRAF, Burkina Faso)
Groupe de Recherche et d'Echanges Technologiques (GRET)
International Institute for Environment and Development (IIED)

The recently created *West African LandNet* is a branch of an evolving continental network. Its aim is to support public debate about tenure policy options, by facilitating meetings between researchers, practitioners, decision-makers, NGOs and civil society representatives in Africa.

Le *Groupe de Recherche et d'Action sur le Foncier* (GRAF) is a Burkinabé organization that unites leading researchers and consultants working on the issue of land rights issues.

Le *Groupe de Recherche et d'Echanges Technologiques* (GRET) is a French NGO working at the interface between research and development. Over the last six years, it has organized or co-ordinated a number of workshops on making land rights more secure, land transactions and the management of renewable resources.

IIED is an international NGO based in London, whose aim is to promote more equitable, sustainable development, especially in developing countries. Its Drylands Programme has 15 years of experience in supporting research, training and communication activities in Africa in the fields of natural resource management, rural land tenure, decentralization and participatory approaches.

This seminar will have some sixty participants - policy-makers, elected representatives, officials from farmer organizations and researchers from French- and English-speaking Africa - and offer the opportunity to report back to stakeholders on the recent findings of studies undertaken on some of the major issues affecting land rights, allowing for open, fruitful debates between decision-makers, practitioners and researchers. It will help to build a common culture based on the most recent advances and enrich the ongoing debate within the various countries involved.

Organization of the seminar

The seminar will be built around two series of workshops: the first will give feedback on work undertaken, while the second will be more geared towards future prospects and operational issues. The workshops will be introduced on the first day in a general presentation summarizing analysis of the tenure situation and referring to current issues and debates (acknowledgement of local rights, local management, decentralization, etc.), followed by a session devoted to trends in current tenure policies (summary table; insights into some current experiences; changing position of international institutions, etc.).

A paper will be given at the start of each workshop, taking stock of experience and ongoing debates. A plenary session will focus on the question of holding a national public debate on these issues and how to go about it. Following a general debate about the conclusions, the seminar will finish with a round table session.

Apart from the text of the papers to be given, which will be available to participants, a selection of recent work and publications will be on view.

Funding

The seminar will be financed by the French Ministry of Foreign Affairs who supported some of the work described above, and the Dutch and Swedish Cooperations.