

Can land policies be reformed without transforming land institutions?

Annual World Bank Conference on Land and Poverty
April 23–26, 2012

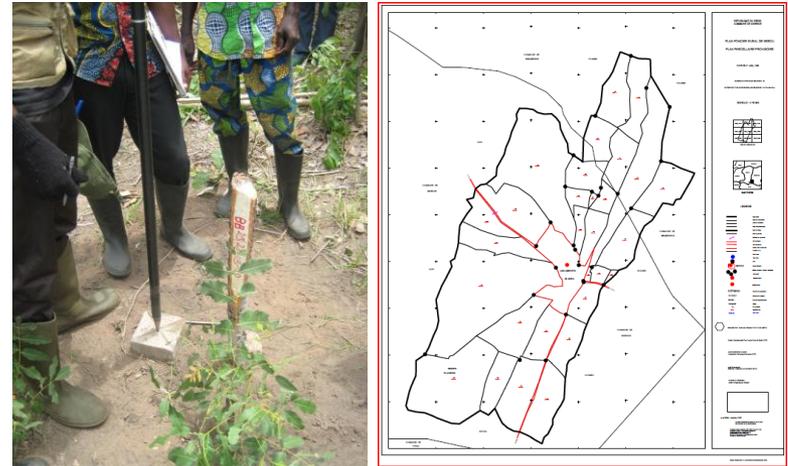
André Teyssier, World Bank, AFTAR
Harris Selod, World Bank, DECAR

The issue

- Centralized land registration systems (*immatriculation*) may not be adapted to rural contexts in Africa
- Innovative approaches to lands rights registration are being experimented
- Implementation has faced difficulties, some of them rooted in opposition to the policy
- What explains resistance to change?
 - Key factor: role of institutions that challenge policy orientation and implementation
 - Examples of Benin and Madagascar
- What lessons? What can be done?

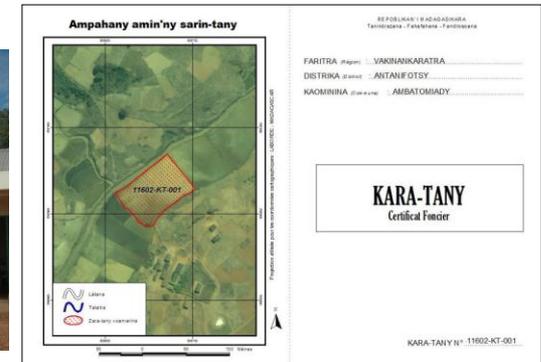
Benin: *Plans Fonciers Ruraux* (Rural Land Use Plans) PFR

- Land reform in Benin: directions, contents and first results
 - Started in 2007 with a rural land law
 - Based on two principles
 - Creation of a new legal status confirming a presumption of right; departing from State eminent power
 - Decentralized approach (in the wake of recent decentralization laws); land use certificate
 - Implementation of Rural Land Use Plans (*Plans Fonciers Ruraux*, PFR)
 - Clarification of rights followed by formalization (land use certificate, CFR) based on village-level mapping and surveying of land uses; Piloting of 41 PFRs since 1993 without certificate issuance
 - Management and issuance of certificates by communal structures
 - Intensification of program under MCC 2006-2011 compact
 - MAEP objective: 66 villages, MCA objective: 300 villages and 75,000 certificates



Madagascar: *Municipal Land Offices & Land Certificates*

- Land reform in Madagascar: directions, contents and first results
 - Launched in 2005
 - Based on 2 principles:
 - New legal framework to delete the principle of State property presumption
 - Decentralized land management : Municipal Land Office & Land Certificates
 - Since 2006 450 out of 1,550 Communes have their Land Office
 - 150,000 applications / 75,000 land certificates issued
 - Average cost: \$14
 - Average processing time: 7 month
 - (traditional land title: \$500 / 6-10 years)



What is the future?

- Benin: Program to be completed
 - End of 2011: less than 1,000 certificates issued
 - Capacity of some communal structures still to be built
- Closing of MCA program
 - Are local governments ready to manage the process? (issue of capacity and funding)
- Ambiguity regarding the nature of the delivered right
 - Individual ownership rather than various local rights; less focus than anticipated on the recording secondary rights
 - Debate regarding compulsory or voluntary conversion of CFR to title in drafting of recent policy documents
- Creation of national agency (*Agence Nationale du Domaine et du Foncier*)
 - How will it affect the delivery of certificates? (“Land Ownership Certificates”?)
- Scaling up from 300 to more than 3000 villages?
- Madagascar land reform has slowed down
 - 150 new Municipal Land Office each year in 2008 & 2009 – 50 in 2011
 - 32,000 land certificates issued in 2009 – 10,500 in 2011
 - 81 land certificates issued by Commune in 2008 – 23 in 2011
 - Nevertheless an obvious local dynamic seems to maintain the land management decentralization.
 - Since the coup: 200 new Municipal Land Offices and almost 30,000 LC

What explains the constraints that weighed on the reform?

- Benin

- A land program initiated *before* the legal framework was in place and *before* agreed upon land policy documents => exposed to change in policy orientation
- Different visions were expressed in subsequent policy document (*Livre Blanc 2009, Lettre de Cadrage 2009, draft Code Domanial et Foncier 2012*) showing lack of consensus on initial PFR approach and objectives:
 - Land Use Certificates? or Titles through conversion of CFR?
 - Decentralized provision (*commune* level)? or “deconcentrated” provision (ANDF, department level)?

- Madagascar

- The reform process meets with legal, technical and financial constraints + local capacities issues
- Suspension of international funding following the 2009 coup
- Weakened political will for decentralization
- Strategy to maintain the traditional land titling system

Consequences: land administration at odds with new land policies?

A gap between land administration and land policies

Centralized and administration services designed and trained to manage State property and to issue land titles

Land policies based on decentralized land management system and land certificates

Consequences :

- 2 land management systems with few shared information and risk of overlaps
- No arrangement to allow Municipalities land activities counsel and monitoring
- No training institution in land management for local government staff

Lessons: no land reforms without a deep restructuring

- In Benin
 - PFR experience was possible because of decentralization (first commune elections in 2002)
 - Creation of *Agence Nationale du Domaine et du Foncier*
 - Will land management through ANDF remain decentralized?
 - Overlaps with *commune* land management structures?
- Land sector restructuring in Madagascar
 - An institutional audit is planned
 - Ideas about new land institutions:
 - New administration in charge of advising Municipalities
 - National local land management training institution
 - Para-public agency in charge of State property management (+ large scale land acquisitions)