



African Union



African Development Bank



Economic Commission for Africa

Land Policy in Africa:

Central Africa Regional Assessment





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Acronyms and abbreviations

AfDB	African Development Bank
AU	African Union
HG	Housing Bank of Gabon
CATZU	Land Distribution Commission in Urban Areas
CATU	Urban Land Distribution Commission
CDD	Diocesan Development Committee
CEA	Economic Commission for Africa
CEMAC	Economic and Monetary Commission of Central Africa
CFC	Cameroon Land Bank
CNTB	National Commission for Land and Properties
COMIFAC	Central African Forests Commission
COREP	Permanent Representatives Committee of the Executive Council
COTCO	Cameroon Oil Transportation Company
CREFOGA	Gabon Land Bank
CRH	Compte de refinancement de l'Habitat du Gabon
DAACO	Directorate of Assistance for Self-Construction
DEDTCF	Directorate of Lands Registry, Stamp Duty and Land Conservation.
DPGT	Rural Development and Soil Management
ECOFAC	Central African Forest Ecosystems
FNH	Fonds National pour l'Habitat
GCLME	Regional Programme Major Maritime Ecosystems of the Guinea Current
MAETUR	Urban Lands Planning Mission
MAGZI	Industrial Areas Planning and Management Mission
MATUH	Ministry of Planning for Lands, Urbanization and Housing
MINDAF	Ministry of Lands and Real Estate Affairs
MINEF	Ministry of Environment and Forests
NEPAD	New Partnership for Africa's Development
UNOID	United Nations Industrial Development Organization

PANLD	National Action Plan for Fight Against Desertification
PIP	Provisional Priority Programme
UNDP	United Nations Development Programme
UNEP	United Nations Environment Programme
RCA	Central African Republic
POS	Soils Tenancy Plan
RDC	Democratic Republic of Congo
SDAMVM	Master plan for Planning and Valorization of Wetlands
SDAU	Master plan for Planning and Urbanization
SNI	Société Nationale Immobilière
SODECOTON	Cotton Development Society
AU	African Union
UN-Habitat	United Nations Programme for Human Settlement
VRD	Highways and other networks
ZAI	Industrial Planning Zone
ZIC	Hunting Ground
ZICGC	Community-managed Hunting Ground

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Executive Summary

The Central African region includes Angola, Burundi, Cameroon, Central African Republic, Chad, Congo, Democratic Republic of Congo, Equatorial Guinea, Gabon, Sao Tome & Principe. The region is characterized by its high diversity, as it reflects all types of ecosystems of the continent. The region is most known as hosting one of the world's richest forest biodiversity as well as valuable natural resources such as mineral resources and oil. The population of Central African region was estimated at some 121 000 000 inhabitants in 2007. However this population is unevenly distributed. While certain countries as Burundi are experiencing high population density (300 inhabitants/ Km²) others have less than 5 inhabitants/ Km². In all countries of the region, rapid urbanisation is a heavy change trend. The region has a specific political and institutional context, due to a complex colonial history. France, Great Britain, Germany, Belgium, Portugal and Spain are among the European colonial powers who dominated the region.

State sovereignty over land is common in quite all Central African countries, and is usually associated with non recognition of customary based land rights held by local communities. Other top land issues in the region include: lack of clear land policy, inadequate land laws and legal pluralism; gender issues with special attention to access of women and indigenous people; weak capacity in land policy development and implementation; excessive centralization of land administration systems and poor land governance. All these issues converged in fueling some of the major crisis and conflicts in the continent. Key land policy challenges in the region relates to: good governance of land resources, including participation of non state actors in land policy processes; sustainable management of natural resources, forests in particular; economic growth and poverty alleviation; peace and security.

Current land policies and laws in the region are deeply influenced by the colonial legacy. Customary based land rights are denied by these laws while state sovereignty over land is strongly proclaimed. The region showed very little experience in land policy formulation and in participatory approaches. Most land related reforms undertaken are done through sectoral and ad hoc interventions.

Through Ministries in charge of lands and domain, the state plays a prominent role in land policy implementation. In certain instances, semi-public agencies are established to assume specific responsibilities such as financing social housing programmes. However non state and even informal actors are tolerated as they appear to be useful in filling the void left by the state in certain areas. Urban Development Master Plans and Land Occupation Plans are tools most commonly developed and used in urban and pre-urban areas. However, rural areas lack specific land tools, which resulted in poor effectiveness of land policy and laws in the rural areas and to increasing conflicts related to land in the region.

Currently, there is no significant experience of land policy development process in Central Africa. Apart from efforts to simplify procedures for issuing land titles, key land policy changes in the region are observed mainly in specific sectors such as forests and mining.

In order to make progress in land policy development and implementation in Central Africa, it is crucial to promote participatory monitoring and evaluation of land policy processes, in order to learn from past successes and failure and improve future land policy processes. In this respect, building appropriate human, institutional and financial capacity is a pre-requisite.

I. Background and rationale

Since 2006, the African Union, African Development Bank and United Nations Economic Commission for Africa (AU-AfDB-ECA) Consortium, in conjunction with regional economic Communities, launched an initiative on land policies in Africa. The initiative aims to assist African states to equip themselves with land policies that can contribute to economic development and poverty reduction as well as peace building. One of the pressing objectives of the initiative is to draft a reference framework and guidelines for land policies in Africa. The land policy framework and guidelines are not meant to impose a uniform land policy on African states, but, on the contrary, to help them develop and implement national land policies that are efficient and effective. The framework and guidelines will be complemented by the drafting of benchmarks and land indicators, with a view to enabling the states assess the progress made in the implementation of their land policies and regulations.

The road map for the process of drafting the framework and guidelines on land policy in Africa includes:

1. Consultative Continental Launch workshop
 - The Consultative Continental workshop took place from 27 to 29 March 2006 at the United Nations Conference Centre in Addis Ababa, Ethiopia. The workshop brought together experts, regional organizations and civil society organizations from the entire continent. During the workshop a consensus was reached on the fact that in order to avoid misleading generalizations, the development process of the framework and guidelines on land policy in Africa should be informed by regional assessments, aiming at enriching the continental process with characteristics and peculiarities from each region.
2. Experts' meeting on land indicators
 - The AU-AfDB-ECA Consortium jointly with the United Nations Programme for Human Settlements (UN-HABITAT) convened from 3 to 4 May 2007 an experts' group meeting on land indicators. The meeting was attended by 52 participants comprising stakeholders and experts on land policy, land management and indicators development, and was informed by a concept paper on land policy indicators in Africa. The main outcome of the meeting was a consensus on benchmarks and indicators development mechanisms, particularly: a coordinated process to review the concept paper, based on the outcomes of the experts meeting; moderation of an electronic discussion with a view to include a larger audience in the process; and case studies on land policy indicators in selected countries.
3. Background document for each region of Africa and regional consultative workshops
 - The regional assessments aim at identifying key land issues in each region, documenting ongoing experiences on land policy development and implementation, as well as identifying the initiatives and lessons that may enrich the Framework and guidelines on land policy in Africa. The assessments will also help identify the challenges, the knowledge, institutional and resources gaps, in order to inform the development a capacity building strategy and experience sharing on land policies. Using the background document and the skeleton Framework and Guidelines produced by the continental consultative workshop, as well as the regional assessments, the regional consultations will provide a solid basis for discussion, taking into account the regional peculiarities, lessons and experiences in developing and implementing land policies in each of region.

4. Meeting of African experts on land and African ministers in charge of land issues
 - Based on the outcomes of the regional consultative workshops, the African task force on land will enrich the skeleton Framework and Guidelines on land policies with a view to submit it for the continental meeting of African experts and ministers in charge of land. During this meeting, the project will be subject to close scrutiny and discussion by the key experts of AU member state ministries in charge of land. One of the key outcomes of the meeting of experts shall comprise an improved draft of the Framework and Guidelines on land policy in Africa, for submission to the ministerial meeting. In addition, the report of experts on the Framework and Guidelines, including the key recommendations on its implementation shall be produced. Following the experts' meeting the ministers shall examine and adopt the report and recommendations of the experts on the Framework and Guidelines on land policy in Africa.
5. The Summit of Heads of State and Government of the African Union
 - The report and recommendations of Ministers on the Framework and Guidelines on land policy in Africa shall be submitted to the decision-making organ of AU for review and adoption. This is the Committee of Permanent Representatives of the Executive Council (COPRE). The Executive Council shall prepare a draft statement for review and adoption by the conference of Heads of States and Governments. The statement shall contain resolutions and decisions pertaining to implementation and monitoring.

This report is part of the third step of the above roadmap. It constitutes a background document on the Central Africa region. It aims at documenting land-related peculiarities, initiatives and lessons in Central Africa. The report will serve as a working document for the regional consultative workshop scheduled in Yaoundé in July 2007.

I.1. Objectives of the study

The objectives of this study were to:

- Identify at the sub-regional level the key land issues and challenges that hamper the sustainable management of natural resources, as well as peace and security.
- Document from a historical perspective policies and legislation pertaining to land management at the sub-regional level.
- Document any complementary policy, legislation or law that may foster or hamper the implementation of land policies.
- Document relevant processes which participate in the formulation and implementation process of policies.
- Identify key institutions involved in land administration and disputes settlement, etc.
- Document all institutional reforms pertaining to land administration.
- Document other existing initiatives pertaining to land policy reforms.
- Assess to which extent land issues and related challenges are taken into account by policies, legislations, laws and processes identified above. Highlight lessons and the areas for improvement.

- Assess to which extent institutional reforms have contributed to the formulation and implementation of land policies, while highlighting innovative reforms, such as the use of traditional institutions and processes. Point up lessons and potential best practices.
- Document the challenges, gaps and bottlenecks in land policy implementation and reform, including capacity building needs and appropriate resources to meet them.

This report is only based on a desk study. The consultants did not conduct a field visits to interview the representatives of the countries studied. As a result, the report might have some limitations due to poor availability of documentation for certain countries and time constraint for completing the study.¹ Currently, the Internet is an infinite source of information. Consequently, the consultants took advantage of this unique chance to access most of the information that went to this report. The language constraint explains some of the gaps in the data related to some countries such as Sao Tome and Principe and Equatorial Guinea, as these two countries use Portuguese and Spanish respectively as official languages. The consultants had to refer to secondary sources of information for these two countries because of the language barrier.

¹ The study was conducted between 20 May and 5 July 2008.

2. Overview of Central Africa

According to AU classification, Central Africa is one of the five regions of Africa. From the perspective of this study, this region comprise Angola, Burundi, Cameroon, Congo, Gabon, Equatorial Guinea, the Central African Republic (CAR), the Democratic Republic of Congo (DRC), Chad, and Sao Tome and Principe. Central Africa is a large and diversified region. It covers an area of about 5.4 million square kilometres.² The population is estimated 110 million people.³ Population density is, on average, 20.39 people per km², a figure lower than the average density for Africa (30.38 people per km²). However, some countries such as Burundi and Sao Tome and Principe have very high population densities: 300 and 170 people per km² respectively. At the same time, other countries like Chad, Gabon, Congo and CAR record average densities of 10 people per km².

Apart from Burundi and Sao Tome and Principe, where ethnic diversity is not very prominent, other countries in Central Africa are marked by ethnic, cultural and linguistic heterogeneity. For example, DRC, Cameroon, CAR, Congo and Gabon have respectively 350, 200, 70, 45 and 30 ethnic groups.

All the countries in the region are former colonies. Burundi and Cameroon were colonized by the Germans until 1916 when Burundi fell under the Belgians and Cameroon was split into two sections under British and French rule. As a colonial power, France was also present in the Congo, Gabon, CAR and Chad. Sao Tome and Principe and Angola were Portuguese colonies. Equatorial Guinea was colonized by Spain while DRC was under Belgium. These countries gained independence between 1960 and 1975 (Table 1).

Table 1: Independence dates for the Central African countries

Country	Colonial power	Independence date	
Angola	Portugal	11 November 1975	
Burundi	Germany (until 1916)		
	Belgium (from 1916)	01 July 1962	
Cameroon	Germany (until 1916)	-	
	Since 1916	French part	01 January 1961
		British part	01 October 1961
Congo	France	15 August 1960	
Gabon	France	17 August 1960	
Equitorial Guinea	Spain	12 October 1968	
Central African Republic	France	13 August 1960	
Democratic Republic of Congo	Belgium	30 June 1960	
Sao Tome and Principe	Portugal	12 July 1975	

The post-colonial era in this part of Africa has been characterized in almost all the countries by military uprisings, coups and coup attempts. During the last two decades, institutions have been stable only in Angola, Cameroon, Equatorial Guinea and Gabon. Since the 1990s the democratic wind has been blowing across the region. Multi-party democracy has supplanted one-party systems that marked the onset of independence.

² Size obtained from cumulating the sizes of Central African countries (Table 3, line 1). The size does not include Angola that occupies 1,246,700 km².

³ Estimates based on data from Table 3, line 3. The population of Angola in 2007 was estimated at 12,127,100 people (<http://www.wikipedia.org/wiki/angola>).

Free and democratic elections are the only legitimate avenue to political power as stipulated in the constitutions of the countries covered in this study. Parliamentary democracy is the norm in the entire region.

Almost all the countries in the sub-region have known or are currently faced with situations of armed conflicts (Burundi, Congo, CAR, DRC, Chad and Angola). Sao Tome and Principe has not had a civil war, but her institutions have been destabilized repeatedly. The Congo seems to have found stability since 1998. Angola is undergoing reconstruction after more than 25 years of civil war. In Burundi, Chad and DRC the prospect of war exists, but there is hope that current negotiations will engender peace. The wars in this region have been responsible for the mass exodus of people across the borders.⁴ Refugees are not only a major challenge for the host countries, but also for the reintegration of people to their country of origin upon return. The absorption of refugees by the host countries is done without prior preparation. Settlement is done in areas reserved for their environmental value (forests, natural reserves, parks, etc). The toll on natural resources and the environment is considerable. Conflicts between refugees and local people are very common. The cross-border movement of people can also be a vector of new conflicts (for example, the presence of Rwandese refugees in DRC or refugees from DRC in CAR). The number of refugees and internally displaced persons, as at 2006, is given in Table 2.

Table 2: Figures of refugees in the Central African region (2006)

Country	Internally displaced people (in millions)	Refugees	
		Per asylum country	Per country of origin
Angola	62 000	13 000	207 000
Burundi	100 000	13 000	397 000
Cameroon	-	35 000	10 000
Congo	8 000	56 000	21 000
Gabon	-	8 000	-
Equatorial Guinea	-	-	-
CAR	212 000	12 000	72 000
DRC	1 100 000	208 000	402 000
Sao Tome and Principe	-	-	-
Chad	113 000	287 000	36 000

Source: Human Development Report, 2007/2008.

Six of the nine countries in Central Africa (DRC, Congo, Gabon, Equatorial Guinea, Sao Tome and Principe and Cameroon) have access to the Atlantic Ocean. In total, the region boasts of a 1,996 km coastline on this ocean. Considering the spread across latitudes (it is between 13°S and 24°N) Central Africa illustrates what is often said of Cameroon: it is Africa in miniature. In fact, Central Africa enjoys a diversity of ecological zones, a corollary of the climatic diversity in the region. The region is also a great source of diversified crop production. These crops include cassava, banana plantain, millet, beans, tarots, etc. Cash crops include coffee, cotton, palm oil and cocoa. Despite the good geophysical conditions that are favourable to farming, food security is never guaranteed.

⁴ Cameroon, for example, has been home, since 1990, to refugees from Burundi, CAR, Chad, Congo and DRC.

Central Africa is an immense water reservoir in Africa. The presence of big rivers, lakes and heavy rainfall in most of the region provides an important source of hydropower. The River Congo that marks the boundary between Congo and DRC is the second longest river in Africa after the Nile, with a length of 4,700 km. In terms of flow, it is second in the world after the Amazon River. The navigability of the better part of the river that crosses the DRC from north to south is an important economic factor.

Apart from Burundi and Sao Tome and Principe, the other countries in the region have important and diversified natural resources. The Central African region abounds in mineral resources: cobalt, gold, diamonds, uranium, manganese, copper, etc. Oil drilling is the main foreign exchange earner in six countries in the region: Chad, Cameroon, Congo, DRC, Equatorial Guinea and Gabon. Soon, Sao Tome and Principe may join the list after the recent discovery of oil deposits in the country.

Forest resources are also very important in the region. Out of the 3,450,000 km² that represent the Congo Basin, 5 more than 2 million km² are covered by tropical rainforest. With this surface area, Central Africa is proud to have the biggest rainforest in the world after the Amazon basin. The rainforest has species of trees that are only found in this part of the world and whose quality is highly prized. The economic role of the forest is very important in Central Africa: tropical wood has immense economic value. Unfortunately, the use of forest resources is not sustainable. The current practice leads to massive destruction of forest resources, biodiversity and environment. The impact of these practices on the economy will soon begin to be felt. In fact, the inordinate consumption of resources today means that there will be less products in future markets. Since 1999, affected countries have undertaken initiatives to reverse the destruction and support a sustainable management process for forest resources.

On 17 March 1999 a Summit of Heads of State of Central Africa was held in Yaoundé to discuss sustainable management of the thick and humid forests of the Congo Basin. The summit ended with the “Yaoundé Declaration”. During the World Summit on Sustainable Development in Johannesburg in September 2002, a Partnership for Congo Basin Forests (PFCB) was created. The partnership brings together 29 government and non-governmental organizations. The Treaty of 5 February related to the conservation and sustainable management of forest ecosystems in Central Africa blessed the creation of an international sub-regional organization, the Commission for Central African Forests (CoCAF), whose mandate includes providing guidance on, harmonizing and monitoring forest and environmental policies in Central Africa. Conservation and rational use of Forest Ecosystems in Central Africa (FECA) is a regional programme that covers six Central African countries (Cameroon, Congo, Equatorial Guinea, Gabon and Sao Tome and Principe). It was initiated in 1992 by the European Commission with a view to ensuring the conservation of the tropical forests. Central African countries have a legal framework enabling them “to deal with environmental degradation and fight against fraudulent and destructive use of natural resources [...]” (RIDDAC, 2007:9).

Despite the abundance of natural wealth in Central Africa, the people are very poor. This is due to unequal distribution of incomes from this natural wealth. In most countries in the region, the ratio of people living below the poverty line is above 50 per cent. In 2005, only Cameroon, Congo, Equatorial Guinea, Gabon and Sao Tome and Principe had average level of human development. The Human Development Index for these countries is between 0.677 and 0.532. The index for the rest of the countries in the region is between 0.413 for Burundi and 0.384 for the CAR. It’s worth mentioning that the average Human Development Index for Sub-Saharan Africa is 0.493 (UNDP, 2007/2008).

The Central African economies are characterized by a strong dependence on basic commodities which claim 85 per cent of total exports achieved in the Economic Community of Central African States between 2000 and 2005. The consequence of such a situation is considerable as the prices of basic commodities fluctuate frequently on the international markets and as a drop in prices can lead to an economic crisis.

5 The affected countries include Angola, Burundi, Cameroon, Congo, CAR, DRC, Rwanda, Tanzania and Zambia.

The economic growth rate increased from 3 per cent in 2006 to 4.5 per cent in 2007. However, the rate has remained lower than the African average of 5.8 per cent (ECA, 2008). While occupying the last position among the five African regions, Central Africa trails behind East Africa which has limited natural resources. The projections for 2008 maintained Central Africa in the last position compared to the other four regions. Growth is projected to increase from 4.5 per cent to 5.4 per cent. Whereas the increase in oil production led to a significant economic growth for Equatorial Guinea (10 per cent) and Gabon (4.9 per cent) in 2007, Congo and Chad had a decline in oil production resulting in a decrease in economic growth from 6.1 per cent to 4 per cent in Congo. Chad had negative growth, from 0.5 per cent in 2006 to -0.5 per cent, in 2007. Thanks to the diversification of her economy that was traditionally based on cocoa farming, Sao Tome and Principe recorded a growth of 6.5 per cent (ECA, 2008). In 2006 the part of agricultural sector in the gross domestic product (GDP) was 22.1 per cent. In 2004 the ratio was 27.3 per cent (ECA, 2008).

Table 3 : Some indicators for Central African countries*

Country	Burundi	Cameroon	Congo	Gabon	Equatorial Guinea	Central African Republic	Democratic Republic of Congo	Sao Tome and Principe	Chad
Indicator									
Area (km ²)	27 834	475 442	342 000	267 667	28 051	622 984	2 344 798	1 001	1 284 200
Population	8 691 005 (8)	16 988 132 (4)	3 150 114 (2)	1 424 906 (6)	523 051 (4)	3 683 538 (3)	62 660 551 (6)	175 883 (3)	10 542 141 (8)
Population growth rate (%)	3.443	2.067	2.696 (8)	2.216	2.732 (8)	1.487 (8)	3.065	3.116 (8)	2.960
Density (people/km ²)	312.24	35.73	9.21	5.32	18.65	5.91	26.72	175.71	8.21
GDP/person (US\$)	100 (8)	695 (4)	3.700 (7)	3.685 (1)	5600 (0)	320 (2)	110 (4)	280 (1)	480 (6)
Economic growth rate (%)	5.1 (6)	3.6 (4)	2.8 (7)	1.20 (4)	12.7 (7)	4 (7)	6 (4)	6.5 (7)	1.3 (6)
Rate of urbanization (%)	10 (7)	51.20		83.64	49.30		33.12	47 (3)	25.3 (8)
Life expectancy (years)	51.71 (8)	50.89 (5)	50.02 (2)	54.49 (6)	55.15 (3)	41.71 (2)	51.46 (6)	66.28 (2)	47.43 (8)
HDI (5)	0,413 167/177	0,532 144/177	0,548 139/177	0,677 119/177	0,642 127/177	0,384 171/177	0,411 168/177	0,654 123/177	0,388 170/177
Ratio of agriculture in economy (%)	34.85	41.18	5.6	8.05	2.8	55	57.90	14.8	22.72
Ratio of industrial sector in economy (%)	20.01	16.67	51.1	62.14	92.5	20	19.30	14,2	51.20
Ratio of services in economy (%)	45.14	39.15	37.3	29.81	4.6	25	22.80	71	26.08

* (0), (1), (2), (3), (4), (5), (6), (7) and (8): data based on estimates from 2000, 2001, 2002, 2003, 2004, 2005, 2006, 2007, 2008.

Source: The table is based on data from the following sources: Human Development Report 2007/2008; <http://www.wikipedia.org/>; <http://www.cia.gov/library/publications/the-world-factbook/>; <http://www.populationdata.net/>.

3. Key Land Issues in Central Africa

3.1. Land, forest ecosystem management and indigenous peoples' rights

3.1.1. Historical background of land issues in the region

The Central African countries have been colonised by Belgium, Britain, France, Germany, Portugal and Spain. Most of them became independent in the 1960s.

France implemented the 1804 Civil Code to her colonies. This meant that the metropolitan system on land policy, land rights, privileges and mortgages was enforced in the colonies. This metropolitan system encountered no particular encumbrances when applied to Europeans. However, the situation was different when it was applied to indigenous Africans whose perception of land was at variance with the Civil Code since it was intimately tethered to social organization, especially ethnic organization and family. In this regard, the 1900 and 1901 decrees of on land ownership stated that “property belonging to indigenous people is governed by customs and local manners for all matters pertaining to acquisition, conservation and transmission”.

The land registration system, introduced in western and equatorial Africa, in Madagascar and the Somali Coast through a number of decrees, was borrowed from Tunisian legislation, which was as well inspired by the Australian system of the Torrens Act. Land registration was optional: property for which registration was not required was subjected to the Civil Code and French law, when it belonged to Europeans.

In most of the colonies, land transfer from black people to Europeans was characterised by two restrictions: restrictions from local customs and restrictions imposed by French Law.

The decree of 24 July 1906 provided for the possibility of registering collective property on condition that once registered, the collective rights would be subject to the Civil Code. This was like an apportionment or an allotment in favour of the native who was abandoning the community. Such an act was incompatible with community organization and the management of collective property. The main features of communal property such as submission to the authority of a chief, periodic redistribution of lands, the inalienability of communal lands were the antithesis of the Civil Code and the French law. In view of this situation, the decree of 12 December 1920 allowed registration of land for natives, but only at individual level.

The decree of 8 October 1925 was the first to institute a procedure whose objective was to certify the rights of land tenants as conceived by the custom. The decree organised a procedure for recording and establishment of customary land rights. It led to the issuance of a certificate confirming the right of tenancy. This decree was not successful. Consequently, it was repealed on 20 May 1955.

The decree had embraced the customary land issue globally and, complementing the land decree of 26 July 1932, had attempted, to document all African lands, including those under collective tenure. Indeed, the decree of 20 May 1955 was above all, an attempt to clearly establish the inventory of state lands and to clarify the distribution of lands between the various local communities. After ascertaining the state property, the decree confirmed the validity of customary land rights and organized a public and contradictory procedure to verify their existence and scope through official title.

In 1959, Law n°59-47 of 17 June 1959 pertaining to state and private property was promulgated. The law confined the scope of state lands to those dedicated to common usage and recognized the customary land rights of traditional communities, with the exception of limited areas, especially urban lands or plantations that had been allocated to foreigners.

When the curtain of colonization fell, the legislation in force was dualistic: one subjected to written colonial law and the other to customary practice. After independence, and despite a plethora of land related laws, the states did not challenge the legal dualism in land; as a result, customary land systems continued to manage lands in rural areas.

DRC was a Belgian Colony, whereas Burundi was under German rule until 1916 before passing on to Belgian tutelage. Burundian land legislation included in the one hand laws specific to this territory and in the other hand provisions either common to the former Rwanda-Urundi territory or particular to Congo and made applicable to Rwanda-Urundi in all matters.

As a result, in these three entities there were lands subjected to written law and owned by Europeans in urban centres while there were other lands subjected to customary law and which were located in the periphery of the urban centres. The lands under written law were governed by the land registration system borrowed from the Torrens Act since 1885.

Since 20 July 1973, DRC has had a new land law in which land is deemed an exclusive, inalienable and indefeasible property of the state. Thus, individuals can occupy a portion of the state's private lands only as perpetual lessees if they are Congolese or ordinary lessees - long-term lessees or surface owners- if they are foreigners or legal entities. According to this law, lands possessed by local communities that is, village lands are now state lands. As for the communal and individual land rights, Article 389 of the Land Law in DRC decides: "The rights of enjoyment of these lands shall be governed by an order of the President of the Republic". To date, the order has never been adopted. As a result, there is a legal void that jeopardizes the protection of customary land rights and hence frustrates people in the villages.

Land management within urban areas falls under the President of the Republic or his/her representative: governor of a province or, in the case of Kinshasa, a minister who is responsible for land issues.

Land acquisition by an individual is only possible in form of a rental contract with a fixed term. The contract can be renewed, but it is validated only when the applicant provides evidence that the land use is in accord with urban planning, hygiene and environmental concerns. In urban areas, the plots can be acquired through two procedures: official division into plots decided by the President of the Republic or his/her appointee or individual acquisition.

The plot building procedure contains the following steps:

1. Preparation of a land request file and submission to the officer in charge of land titles;
2. Registration of the land in the cadastre office after a site visit, demarcation by a land surveyor followed by the preparation of the minutes of the demarcation process;
3. Determination of the price for the plot by the Office in charge of titles; and
4. Delivery of rental contract by the office in charge of titles after payment of due taxes.

The procedure for individual land acquisition is more complicated, since the applicant must first fence off the plot before obtaining the rental contract and after following all the steps above.

The recognition by the colonial administration of customary land rights for indigenous people in Belgian Congo was also extended to all other colonies under Belgium. According to Burundian custom, it is the *Mwami* who was the eminent owner of all lands, water sources and other natural resources of the country (forests, savannah, marshlands, lakes and rivers), whether these resources were in use or not.

3.1.2 Land issues related to the management of forest ecosystems

In Equatorial French Africa, the first legislation on forests was the decree of 28 March 1899. The legislation contained provisions on forest use, wood-cutting or forest clearing; it also contained particular laws as well as laws on native reserves. The decree was complemented by another one of 5 September 1899.

One of the challenges of drafting forest legislation relates to how to reconcile the requirement to plan and conserve forests with the need to respect customs of the local people. The administration decided to preserve the customs of the natives on both state and private forests. Nonetheless, the governors had the power to take any necessary measures to prevent any abuse that may jeopardize the forest reserves.

In DRC, the first legislation to manage forest use was the decree of 30 April 1887, with complemented by the decrees of 7 July 1898 and 3 June 1906. The 1906 decree provided in Article 6: "Apart from lands granted to them, the natives can cut wood for their personal use, subject to measures we might take for the conservation of State forests. They may fish in the rivers, streams, lakes, ponds and hunt in the State forests within the framework of relevant laws and regulations...."

For the period from 1908 to 1960, the forests were managed successively by decrees of 4 July 1912, 4 April 1934, 11 April 1949 and the royal decree of 30 May 1922. After independence, all the Central African states promulgated new legislations to manage the forests. The legislations emphasized environmental concerns of the moment, that is, forest management that integrates sustainable development.

Since 29 August 2002, DRC has had a new forest law. In this law, forests are state property which can be granted to individuals as a lease.

Natural or planted forests comprised in regularly granted lands in accordance with the land law, belong to the lessees. Rights pertaining to forests are exercised in respect of the forest law provisions and its implementation regulations.

Trees located in a village or its the vicinity or in a communal or individual farm are the collective property of the village or the individual land owner. These trees can be transferred to third parties.

A local community may on request obtain from the state, a forest concession for part or all of the protected forests, within the forests they normally own by virtue of the local custom. According to the law, local community means local traditional people organized around customs and united by clan ties or family solidarity that constitute its internal cohesion. It is characterized also by attachment to a determined area. The modalities of granting forest concession to local communities are determined by an order of the President of the Republic. The granting of such forest is free of charge.

The holding and use of any forest is governed by the forest law and its implementation regulations. The law requires that the use of any state forest must be subjected to the existence of a forest inventory in the first place and that any management and usage of the forests must be preceded by a forest management plan.

The loggers are under the obligation to conform to the legal provisions pertaining to nature conservation, hunting and fishing.

3.1.3. Forests and rights of indigenous people

During the entire colonial period, a distinction was made between Europeans and natives or indigenous

people. Among the natives or indigenous people there was considerable ethnic diversity: Bantu, Pygmy, Nilotic, etc. All were subjected to the legislation relating to natives and all enjoyed the prerogatives provided for in both legal and administrative documents. However, for a while there seemed to be a distinction between natives and indigenous people.

In Central Africa, the term “indigenous people” is today used in a different sense: to designate the Pygmies in the tropical forests. Since colonial period, Pygmies were marginalized on the basis of persistent prejudices and stereotypes for which they are still victimized today. Currently, the main thrust of their demands is equal enjoyment of rights and freedom. In particular, they would like to benefit from development programmes and projects, especially on the conservation of nature, use of natural resources, public infrastructure and industrial agriculture.

Although Pygmies are hunters and gathers by tradition, they own huts in specific villages and the inhabitants of these villages do not view them as aliens. In general, they are integrated into the social organization of the region.

There are three types of forests in DRC. Reserved forests, which are owned by the state and are by virtue of a classification act, subjected to a restrictive regime as regard to customary use rights and forest exploitation. These use rights are exercised by local people living within or near the forest, that is, local community, including all Bantus and Pygmies.

Protected forests are property of the state (“private forest domain”). Unlike reserved forests protected forests are subjected to less restrictive regime with respect to use and exploitation rights. In these forests, any Congolese may exercise use and exploitation rights in accordance with the provisions of the forest law and implementation regulations.

The legal concept of “Permanent production forests” comprise forest concessions and other forests that have been subjected to a public survey, and therefore are intended for the market based allocation. Neighbouring communities of these forests may exercise their traditional use rights as long as it is compatible with the rights of the loggers. However, they are not authorised to practise agriculture.

However, numerous examples show that for various reasons and despite frequent comments in the media, the issue of the land rights of indigenous people in the Central Africa forests has not been properly tackled. This is the case, for instance, with the Bagyéli in south of Cameroon’s forests.

Bagyéli customary law grants communal access to forest resources to members of residential units, organized within a camp, a village, or linked by kinship ties. The diversified social relations may lead to complex networks of mutual rights covering considerable distances. When the Bagyéli settle in a distant area, they opt generally for places where clan networks are in the vicinity. In this way they may take advantage of a set of access rights to forest resources. There are similarities between the customary land rights of the Bagyéli and those of the Bantus since, from the Bantu view point, the Bagyéli are integrated in the clans of their Bantu cousins and the Bagyéli camps are traditionally considered as a section of the neighbouring Bantu villages. As a rule, the villagers and the Bagyéli can use the same resources and forest areas, but in practice, Bantus have a tendency to more use secondary forests, fallow lands and cocoa plantations, instead of the virgin forests (forests that have not been converted into agricultural lands, that is, neither as farms nor as fallow), traditionally preferred by the Bagyéli.

These Bagyéli land and subsistence systems were not ignored in the Cameroon Oil Transport Company (COTCO) compensation programme. Nelson (2007) documents the discriminatory nature of the current conflict resolution system where the interests of the Bagyéli have been ignored. The blatant unfairness is due to the weak economic and political standing of the Bagyéli.

Since the compensation procedure was based on land property, the Bagyéli were deprived of their rights. The Bantus shrewdly claimed the Bagyéli lands and managed to get the compensation which was due to the Bagyéli.

The fact that customary rights of the Bagyéli on lands and resources were not taken into account compromised from the beginning the compensation process linked to the oil pipeline project. The customary land system on which the means sustenance of the Bagyéli depends on does not seem to have been recognized by any of the agents in charge of the compensation process.

To date, no Bagyéli has received individual compensation for the pipeline project yet. This has weakened their land rights and consequently their survival which depends exclusively on the use of forest resources. Here, we are faced with a perfect example of land tenure insecurity due to vulnerability and increasing marginalization of indigenous people. The example raises the issue of governance in land issues, especially unfairness with respect to information access.

3.2 Land markets and land production

Within the Congolese (Kinshasa) law, the President of the Republic or his appointees, that is, the Minister for Lands in Kinshasa town and the provincial governors, are the ones responsible for preparing plot building plans in urban areas and neighbouring districts. The plots are allocated to the public through a ministerial order or bye-law of the governor of the province, depending on the categories discussed above. These authorities may take the decision to proceed to subdivision when necessary, for example, in view of land applications.

DRC land law allows semipublic companies to obtain from the state a block of land for the purpose of subdivision into plots. When the company obtains this land, it has to subdivide it first, then survey it, provide water and electricity, and create the road network, before putting it on the land market. The company is given a term of two to five years to realise all these land development activities. The land is therefore allocated to the company for a term not exceeding 25 years from the date of completing the amenities. The term is renewable for the same duration, as for any other ordinary land lease.

An enquiry launched in 1999 by the Ministry of Public Works, Planning, Urbanization and Housing on modalities for acquisition of plots in Kinshasa town found:

- 26.73 per cent purchase from the state;
- 10.30 per cent purchase from traditional chiefs—some villages are partly in town and partly in the village;
- 13.27 per cent receive the plots from inheritance;
- 37.52 per cent purchase the plots from third parties;
- 3.23 per cent squat illegally on the plots—de facto occupation; and
- 8.95 per cent own plots in an indeterminate manner.

In conclusion, the above data confirm that the land market is relatively active since almost a quarter of the plots are acquired in return for payment. However, the same data reveal that almost 15 per cent of plots are acquired from customary chiefs or are squatted on, which is in violation of the land law.

3.3 Gender and access to land property

In most Central African countries, a single or married woman in an urban areas can own land or have a land lease in her name. As for the right to sell land, the family code stipulates that irrespective of the marital settlement and related operating modalities, the joint consent of the married couple is necessary in order to sell the land or the house. According to the customary land law, land is a communal, indivisible and inalienable asset, and according to the same customary law, the farmer or planter, male or female, is the owner of the fruits of his work and can therefore sell them. The reality is very different.

Five main international declarations have clearly stated the rights of women to land. During the Fourth World Conference on Women held in Beijing in 1995 it was stated that “men and women must have equal access to economic resources, including the right to inherit and to own land and other properties”. Two years later, in 1997, a resolution of the United Nations on women and their rights to decent housing and land property noted that women were the main victims of expulsions and forced evictions. This demonstrates that land and gender remains a critical issue.

It is therefore evident that raising awareness is not sufficient to reverse the status quo, particularly in Central Africa where the weight of customs makes the issue of women’s access to land more complex. In most countries investigated, women cannot access property by virtue of their role as spouse. For example, under Cameroonian law, the man has the obligation to provide a house for his wife. This shows, once again, that in the mind and in practice it is still inconceivable that a woman can access property and enjoy it like a man. And yet, in most cities in Central Africa such as Libreville, women are increasingly breaking new ground to access property. Nevertheless, this does not mean that women are granted any favourable conditions.

This gaping inequality, more or less made possible by some aspects of customs and maintained by non implemented public policies, has serious consequences. In the rural areas, the effects of land insecurity on agropastoral production are well known. In cities, the lack of specific measures to provide women with access to housing has undermined the realization of the Millennium Development Goals.

In Central Africa, the absence of well-adapted housing policies has pushed disadvantaged and low income families to live in slums with deplorable sanitation and without land tenure security. Property rights appear to be a privilege of men.

To a certain extent, this situation also impacts on the youth and refugees. In Central Africa, access to property by young couples is problematic both in urban and rural areas. This is because existing land policies provide little or no avenues to enable vulnerable groups to own property. These groups are at the mercy of speculators who have the needed financial resources to buy plots at throw-away prices from customary owners and then develop them superficially before selling them at exorbitant prices. The dispossessed groups, which include the youth and women, are reduced to living in slums on very steep grounds with poor drainage systems. These shelters are generally erected without any reaction from the state. But years later, painful operations to clear out the slums spring up as happened recently in Yaoundé in Cameroon and in Luanda, Angola.

3.4 Transnational projects, extensive works and land issues

In the legislations of most of the countries in the region, transnational projects and extensive works are among works which can be declared works of public interest. When the use of private lands is required for the realisation of these works, the procedure of expropriation for of public interest is required. Most constitutions provide that no one should be dispossessed of his property unless it is for public interest, and

notwithstanding the payment of prior compensation as per the law. Private property is indeed considered sacrosanct and is protected by the constitution.

Each state organizes the procedure of expropriation for public interest and determines which facts are eligible for this procedure.

3.5 Land insecurity

One of the objectives of land laws in Central Africa is to reunite the four systems that existed at independence. Since then, the only regular land documentation are the land lease agreements, the provisional land use agreement and the registration certificate. The two first documents are preparatory steps toward a land concession.

In DRC till 20 July 1973, landlord booklet (*certificate de logeur*) or plot card (*fiche parcellaire*) were the regular land documentation in districts reserved for African populations. This land document was suppressed by Article 390 of the 1973 land law and those holding this deed were invited to convert it either to a grant lease or a certificate of registration depending on whether the plot had been developed in line with urban, health and environmental standards.

Tenure insecurity can be reflected in the number of litigations submitted to courts and tribunals. If the certificate of registration is an authenticated deed because it was delivered by the land registrar, the landlord booklet (*certificate de logeur*) is a mere administrative deed drawn up by various political and administrative bodies. There are many disputes over plots held through the landlord booklet (*certificate de logeur*) or similar documents, therefore there is urgent need to convert these deeds. According to surveys conducted in Kinshasa, the landlord booklet (*certificate de logeur*) is the most widespread land deed regardless of the modalities of acquisition of the land. In fact, the landlord booklet (*certificate de logeur*) is the deed held by 39.04 per cent of plots obtained from the states, 52.65 per cent from traditional chiefs, 37.94 per cent for free, 43.31 per cent bought from third party and only 19.60 per cent of lands obtained through *de facto* occupation. The *de facto* occupied lands category is usually covered by a plot card (*fiche parcellaire*).

3.6 Population, land pressure and conflicts

Land pressure “expresses the human population in relation to available space for use. This ratio varies depending on the number of assets, the number of mouths to feed, means of production, method of farming, extent of insertion in the money economy, etc.”⁶

This definition is rather limited, since it is confined to pressure that is present on farm land. However, land pressure affects rural as well as urban lands, grazing lands or forest areas. Analysis of the relationship between land pressure and conflicts requires further consideration of the competition between the various land uses. Beforehand, one should question whether land pressure is a real issue in Central Africa. Based on the average population density in the region, it is possible to argue that the region is sparsely populated. To efficiently assess the phenomenon of land pressure in a specific country, population density alone is not enough, since land pressure is not equitably distributed in the entire region. Thus, a country like Cameroon with a population density of only 37.73 people per km² includes regions with higher densities. Western Cameroon is a good example in this regard. The population concentration in a given zone depends on various factors such as physical and historical features, among others. Thus, arable lands can undergo pressure from agricultural activities. Urban land pressure is mainly dependent on available developed spaces for urbanization. Cities

6 Miliça Cubrilo 1998: Land vocabulary in Black Africa from APREFEA, in Bibliographie et lexique du foncier en Afrique Noire. PAGE NUMBER FOR QUOTATION? MOVE REF TO BIBLIOGRAPHY AND CITATION TO TEXT?

attract many people looking for employment and better living conditions.⁷ Obviously, these are people who need accommodation, food and work. Urban land pressure will therefore be this relationship between offer in urban areas and the level of consumption of this space.

The demographics of Burundi and Sao Tome and Principe may assist in calculating the risk incurred by other countries in the long term. In these two countries, the average population densities are 300 and 170 people per km² respectively. This leads to the question whether with current methods of production where families cultivate less than half a hectare of land, Burundi can afford to feed households which count an average of five people. Currently, the question is relevant in Burundi where land fragmentation are excessive. Even in other Central African countries having more land resources, crop production remains a real issue. It is less an issue of space than of techniques of production, integration of agriculture in the monetary economy and dependence on cash crop farming. Is this situation likely to change? It is difficult to see how. In his book, Meyer (1916) describes the farming habits of the Barundi. By comparing the current situation with the situation in 1916 and by comparing the information available on land use it emerges that 100 years later the situation has not changed significantly. In some countries, the land available for farming has shrunk (such as in Burundi and Sao Tome and Principe) while cultivation and soil preservation techniques have been changing at a very slow pace. Where the need for land is increasing considerably, strategies for conquest of new lands and for intensification are developed in order to address the issue of land scarcity.⁸ In the absence of effective techniques for intensive land use, everything is reduced to mere ground breaking.

Burundi offers a good illustration of countries where the strategy of conquest of new lands currently poses a major problem. The overexploitation of arable lands, endless land conflicts between farmers (who practise subsistence farming rather than agriculture since the land is overly subdivided), conflicts relating to onerous land transactions and anarchic invasion of protected areas have become common. In the absence of soil protection mechanisms, land resources are quickly degraded. Ouédraogo (2007:24) states: “Burundi is facing a set of constraints which constitute central aspects of the land question in this country. The demographic factor features prominently among these constraints since it a long-standing and enduring issue”. He further states: “pressure over land and natural resources is caused by the exponential growth of the population” (2007:45). The author also confirms that “one of the effects of excessive pressure on land is the increased competition for access to land and the exponential rise of land related conflicts” (2007:25).

For the time being, such situation is not widespread in most countries in the region, but this is not a guarantee for the future, since where this phenomenon is not observed yet, the data available indicate that it will not be long before it happens. A report commissioned by the ECA on the utilization of land resources in Cameroon notes that: “[...] the still high fertility rate implies that pressure on farm lands could become a reality in Cameroon before a reduction of this fertility rate intervenes. The will expressed through relevant policies⁹ should not be only to conform to related international recommendations. Government experts have use to underscore the abundance of natural resources and highlight their under-utilization by claiming that *only 30 per cent of arable lands are utilised*. What they do not specify is that this apparent abundance of land resources is existing after about 30 years of independence. What will happen after the next 30 years when the population will have doubled, and when the Country will have to produce more in order to meet basic needs of the population and enhance quality of life” (ECA 2001:21)?

7 Factors of attraction are obviously many.

8 The excessive fragmentation of farm lands can also lead to the adoption of more effective farming techniques. But this is not the case with the Central African countries.

9 This is the population–food security–environment nexus.

3.7 The issue of land control and management in coastal areas

As in all the other regions of the Continent, the coastlines of Central Africa attract a lot of people and activities. The skiddings observed in almost all countries emanate from inadequacy, lack of or non-observance of legal provisions that govern access to coastal lands or the control of coastal resources. The analysis of the rate of land occupation in coastal cities reveals the specificity of the land question in coastal areas. Seven out of nine countries investigated in this study are analysed below. These are: Angola, Cameroon, Congo, Equatorial Guinea, DRC, Gabon and Sao Tome and Principe.)

Table 4: Rate of coastal space occupation in selected countries

	% Coastal population (1994)	% coastal space/total surface area
Angola	25.7	7.66
Cameroon	11.8	6.31
Congo	15.09	3.34
Gabon	41.6	20.27
Equatorial Guinea	53.8	49.30
DRC		
Sao Tome and Principe	100	100

Source: TDA Analysis UNIDO/GCLME (2003).

In all above cases, it appears that the coastal areas are important populating locations and continuously attractive destinations. In Gabon for example, the coastal areas catered for 41.6 per cent of the entire population in 1994. In reality, the situation has gone from bad to worse with Libreville alone hosting 42 per cent of the entire population and more than half of the urban population (DSCR, 2005). The urban population grew at an average rate of 3.2 per cent per annum during the period 1993–2003, rising from 742,000 to 1,014,000 people. In Congo, the coastal areas cover less than 4 per cent of the entire surface area but support more than 15 per cent of the total population. The situation is similar in Luanda, Angola, where more than a quarter of the population live.

Coastal cities in Central Africa are affected by the chaotic proliferation of secondary residences owned by well-off city dwellers who only occupy these homes sporadically. Thus, in the coastal areas of Kribi in Cameroon, Tchawa (2007) observes that out of the 2,978 land titles issued from 1955 to 2005, more than 75 per cent belonged to non-residents. The average size of plots registered was 1.65 ha in 1970; 20 years later, the size fell to 1 ha. This is an indicator of the worrying land speculation in the region that is promoted by businessmen and top civil servants.

The inability of current land policies to reverse this trend is confirmed by sale through private agreements of vast tracks of lands by customary chiefs who provide speculators with land that was previously farms or fallow lands. For concerned communities, farming activities have declined in favour of tourism and other small businesses. The coastal cities of Cameroon suffer high food prices.

Libreville is facing similar issues, as peri-urban agriculture is hampered by persistent land tenure insecurity and give clear indication of the poor effectiveness of existing land policy. In all countries investigated in this study, people ignore consciously or not, that beaches are part of the public maritime domain. Private beaches are legion. The non-observance of the 50 marine steps of non-constructible zones is common and all coun-

tries studied are concerned. Cases of preferential treatments are many in all countries in the region and lead to inconvenient settlement on vast areas of the national domain, which often covers sensitive and fragile areas. This was the case when 204 ha were occupied in Londji in Cameroon in 1956 by a community of fishermen. Attempts to resettle the fishermen have failed. A bay whose features attracted tourism has been occupied in an inconvenient manner by fishermen who had seriously polluted this fragile site within a few years.

The lack of adequate land policy leads to poor ability of the state to anticipate land issues. Related effects of this situation are:

- land speculation as there are not
- marginalisation of local people and anarchic settlements and,
- poverty aggravated by degradation of coastal spaces and resources

It appears clearly that in Central Africa, the lack of appropriate land policy for coastal areas, in line with sustainable development standards, impacts negatively on the capacity of the State to have control over lands. As a result, the states do not have the latitude to plan the rational use of coastal lands for the promotion of economic activities, access to property for the poor or protection of the rights of local communities, in harmony with environmental standards.

In coastal cities, wood from mangroves is a flourishing venture. Mangrove management as a forest ecosystem does not seem to benefit the same attention as other forests where loggers compete for softwood lumber. The region is badly missing a legal framework to preserve the forests and ensure sustainable economic, ecological and social development.

As the region is confronted to a legal void or to failure of governments to effectively control land use, land speculators were able to registered so many lands that it is difficult to revert the situation today without generating protests of the population or serious public disturbances. However, in most cases the desire to preserve public order refrain some governments from engaging into reforms without which land tenure insecurity, all kinds of land disputes , marginalization of local people, anarchic settlements and degradation of coastal lands cannot be avoided. For example, a need to create land reserves on the coast in France forced the government to quickly move from words to action and enact a specific law on coastal land in January 1986¹⁰.

In view of the wide range of users and in order to reverse the worrying trend above described, there is need develop a zoning scheme with involvement of all stakeholders, inter-sectoral voluntary momentum while taking into account the sensitivity of the coastal environment.

3.8 Urban land issues in Central Africa

Central Africa is confronted with increasing challenges related to urban production which leads to marginalization of vulnerable groups, under-integration of informal settlements, and land tenure insecurity.

All big cities in investigated countries have similar problems. The problems result from the overlapping of modern and customary laws, state monopoly over urban production. More over, the problems are linked to these land policies which were inspired by Western-based patterns contexts that ignore social issues when drafting and implementation of land policies.

Given the insecurity in rural areas due to armed conflicts, rural-urban migration is widespread in Angola. Thus, the population of Luanda doubled between 1995 and 2005, from 2 million to 4 million people. This rapid urban growth led to increased demand of building plots. The urban land market in Angola is mainly

¹⁰ Codified in articles L. 146-1 to L. 146-9 of the Town planning Code (France)

informal and therefore, as in the other Central African countries, land tenure insecurity is a reality. Consequently, thousands of Luanda residents were evicted from areas declared unsuitable for building. The ensuing crisis raised a land issues to the level of a major political problem (Foley, 2007). It is estimated that more than 85 per cent of the urban dwellers do not own a land title in Luanda.

In Central African countries, particularly during the last few years, the state was not been able to respond effectively to demands for new plots; neither can it secure the plots already occupied and still less to take up its role as exclusive manager of urban lands. Consequently, the boundaries of towns are uncertain and the resulting fusion of rural and urban spaces poses big land management challenges. This is reflected among other by farming activities within and around cities, whose importance is unanimously acknowledged, but whose legal status is unclear or even non-existent. In urban areas, plots for agriculture purpose are used only on a temporary basis only, since such plots have higher value when used for habitat construction. The competition between agricultural and non-agricultural land involves even poorly drained lands or land deemed non constructible (Moustier et Pagès, 1997).¹¹

There are huge land governance problems in all countries, including in some of them, the cancellation of land deeds in urban areas (Cameroon); in some other countries like Angola, these problems lead to serious threats to peace. The lack of transparency and lack of equity which accompanied the privatization of large tracks of lands in the 1990s in Angola constitutes a trend which need to be addressed urgently.

3.9 Climate change, migration and land issues

Central African countries that are most affected by the effects of recent and current climate changes include Cameroon, Central African Republic and Chad. The climatic changes mainly take the form of reduced rainfall, lengthening of the dry season and a growing fluctuation in the starting date of rainy seasons. Beyond the well known complexity of climate change related issues, the challenge in Central Africa relates to the effects of the change and is due to a process with a cross-border dimension which means it cannot be resolved at the country level.

3.9.1 Climate change and instability of river flows

The Mbororos herdsmen from northern Nigeria and Bauchi Plateau moved toward the Cameroon plateaus since the drought of 1972–1973. It was a snowball type of movement. The livestock leaving the pastures that had been adversely affected by drought moved to the south of the Bauchi Plateau in Nigeria and then to the meridional plateaus of Cameroon. In Chad, there was a slide of isohyets from 150 to 400 km toward the south. This new statistic completely transformed livestock farming in Chad. Until 1970, it was mainly limited to the Chadian Sahel. In the 1980s, Chadian herdsmen abandoned their ancestral grazing grounds and went down to the Sudano-Sahelian areas in the south. When the climate deteriorated in 1984, the herdsmen had already reached the north-eastern part of the Central African Republic.

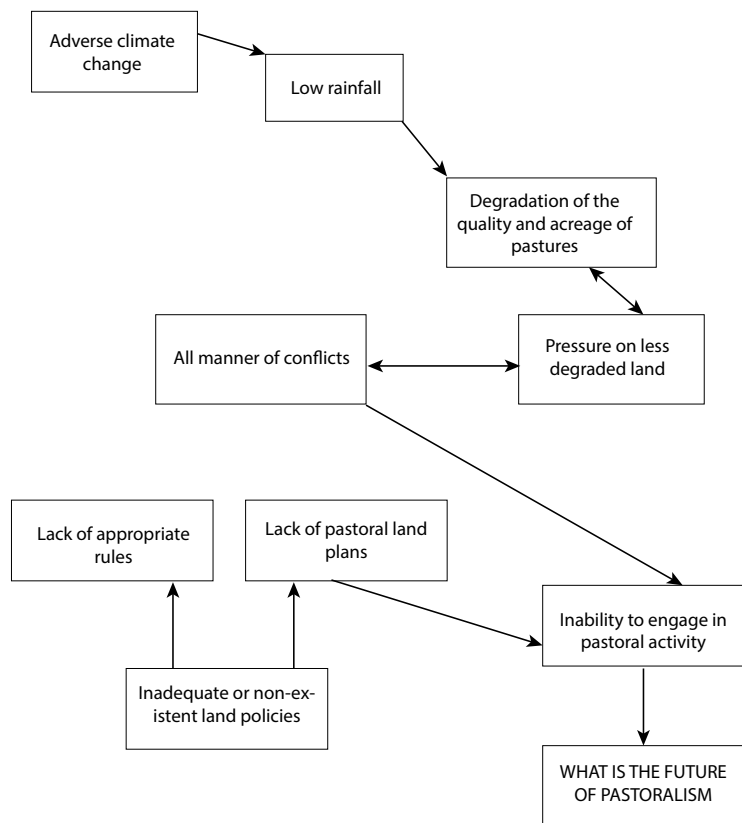
The pastoral phenomenon caused by climatic change has far-reaching consequences for land rights, land use and peace. In general, the communities of the hosting regions perceive negatively the arrival of new comers on lands over which they had full control and use. As a result, conflicts arise and an unexpected and deep change of life styles occurred. This led to a shift from an exclusive and extensive pastoral system to integrated agropastoral systems.

Since adverse climate change also reduces the quality of fodder in the pastures and the area available for grazing, many nomadic herders are forced to become sedentary. This becomes the source of all types of conflicts

11 Moustier P., Pagès, J. (1997) – Le Périurbain en Afrique, une agriculture en marge ? *Economie rurale*, 241 : 48-55. TO REFERENCES?

where indigenous farmers affirm their exclusive right to access local resources. This is a very sensitive issue in all the countries in the region, since although there are legal texts which offer an opportunity to register lands, very few herders make use of this opportunity in practice (Onana, 2005). The reason for this situation is that very few herders are unaware that the law provides them the right to own land.

Figure 1 :Analysis of threats to pastoralism in Central Africa



What is more serious is the formal registration (immatriculation foncière) is not in any way adapted to traditional pastoral systems which were developed through centuries of shared and communal use of fodder and water resources. The individual appropriation of such resources is not conceivable and would mean undermining the foundation of the African pastoral system. We are once again confronted to a situation where land policy proved to be inadequate. Instead of thinking that private ownership is the solution to the issue of pastoralism, it is better to have the political courage to undertake a jointly agreed demarcation by both parties of agricultural land use areas and pastoral land use areas. “Despite the presence of a hostile political context, mediation processes implemented at the scale of small rural territories show that it is possible to undertake land related public interventions without systematic use of the land Code, and building on local practices”¹². Pastoral areas demarcated in such manner and in consideration of their dedication to pastoral use cannot be claimed individually by anyone; but as in the past, it would be used by local communities according to principles of shared access and control, applicable to all.

¹² Teyssier, A., Hamadou, O., Seignobos, C. (2004) – Expériences de médiation foncière dans le Nord-Cameroun

3.9.2 Migration and land issues

In order to have a complete picture of the issue of migration and land conflicts in the northern part of Central Africa, there is need to consider other causes of migration. The fertility of karal (Vertisols) soils in a region where soils are generally of low agricultural value attracts various communities which undertake permanent migrations.

When tension escalates between hosts and migrant communities, the state is conspicuously absent or refuses to apply the provisions of the Land Law, using the excuse of the need to preserve public order. Thus, the Toupourou of Northern Cameroon who recently settled in Guiziga region were denied the right to obtain a land title with the excuse that this could lead to threatening public order. The same applies to serious migration and land issues occurring around dams in these Sudano-Sahelian areas. The case of Lagdo in Northern Cameroon recently made the Minister for State Lands and Land Affairs decide to visit the site in order to cool things down.

In most of the situations analysed, the gap left by the state has been more or less filled by parastatal structures (SODECOTON in Cameroon), programmes initiated by missionaries (Cameroon) or other international bodies (CAR). Although these solutions relatively contribute to peace, they remain fragile since they are not supported by a global land policy that is concerned about fairness.

While awaiting the readjustment of land policies in relation to these sensitive matters, especially through negotiations on land issues, urgent measures should be taken in order to impose a break in the massive exodus toward certain areas. In fact, even this constitutes a leap forwards since the fundamental question remains, that is, how to overcome the negative effects of indigenoussness without losing out on identity. Should not citizens from a country be free to settle anywhere they want in this country? This is major challenge to be addressed by land policies in Central Africa. Finally, these issues can find sustainable responses only if they are also addressed by supranational bodies, specifically by AU and the Economic and Monetary Commission of Central Africa (CEMAC).

3.10 State monopoly over land

State monopoly over land reflects a situation where, through legal provisions, the state, grants itself the ownership of all or a part of the land in the country. The concept of state monopoly over land refers to the idea of a unified space which constitutes the foundation of a centralized power and of property right.

Based on this conception, the state promotes its own representation of land relationships. This representation is considered as having precedence over any other one. Therefore, the State takes the lead in organizing the society through its institutions and in imposing the observance of the rules of the game through the national administration.

The notion of State monopoly over land originates from the state land domain policy which was inspired by the joint application of articles 539 and 573 of the French Civil Code. “[...]. In practice, State monopoly over land denies in practice the legitimacy of local practices related to ownership and management of land” (Ciparisse, 2005:131).

Through their land legislation, all Central African states assert their sovereignty over land. In so doing, the states want, on the one hand to control the national territory and on the other to benefit an important tool for the implementation of their economic and social development policy. The state considers itself the best manager of land resources. In most cases however, the reality is very different. Through a few examples I is possible to discuss how the state proceeds to ensure its monopoly over land.

Article 7 of law no. 62/83 of 21 April 1983 on State Lands and property rights Code of the Popular Republic of Congo provides that the law “confers to the State full and free ownership of the soil, subsoil, and natural resources of the soil and seabed. It organizes the regime applicable to state lands and property rights and regulates the collective and individual users’ rights.” Article 1 of the same law provides that “On the entire territory of the Popular Republic of Congo, land is the property of the people, represented by the State.” At the same time, Article 3 mentions that the natural or legal persons only have users’ rights on the land.

Article 2 of Law no. 2004/003 of 21 April 2004, governing urban development in Cameroon provides that “The territory of Cameroon is the common heritage of the Nation. The State and decentralized land authorities are its managers and custodians within their respective jurisdictions. The decentralized authorities, and in exercise of their autonomy, harmonize their provisions and decisions on land usage.”

In Burundi, the state has the exclusive right to manage the national land resources in the general interest with a view to ensuring economic and social development and in accordance with the modalities defined by the law (Land Code of 1986: Article 2).

In Cameroon, “The State is the custodian of all lands. It may in this capacity, take appropriate measures with a view to ensuring a rational usage of land resources or in order to take into consideration the need to serve the economic options of the nation” (Order No 74-1 of 6 July 1974 on land regime: Article 1).

In DRC, Law no. 73-021 of 20 July 1973 governing property rights, land and real estates, and property security, confers exclusive, inalienable and indefeasible ownership of the land to the state.

In Angola, the Constitutional law of 1973 declared that all non registered lands or lands which are not part of the public domain and may be conceded, except for lands under customary regime. After independence, the People’s Movement for Liberation of Angola (MPLA) adopted a new law which made all natural resources state property. The state also proclaimed himself the master of all lands not fully acquired. The ensuing laws continued to affirm the power of the state over ownership and management mechanisms of land resources (Law 21-C/92).

3.11 Mining and hydrocarbons

Some general rules related to the exploitation of mining and hydrocarbons can be derived from the review of the laws in force in certain Central African States, namely Cameroon, CAR, DRC and Gabon.

3.11.1 Mines

All four states have declared mines state property.

- Cameroon: “Mines are and remain a State property. For mining activities, the State exercise sovereign rights over the entire territory of Cameroon” (Article 6-2 and 3).
- CAR “Natural deposits of mineral substances contained in and under the soil of the Central African Republic are fully owned by the State and royalties can be collected from these resources...»
- Gabon: “All the useful mineral substances contained in and under the soil and of the Republic of Gabon belong to the State” (Article 4).

DRC: “Mineral deposits including artificial deposits, underground water resources and geothermal sites on the surface or under the surface of the soil or in the streams of the country are the exclusive, inalienable and indefeasible property of the State” (Article 3).

The four States distinguish between industrial and artisanal mining operations. In Cameroon, DRC and Gabon, artisanal mining is reserved for local people. The definition of artisanal mining is different in each country. In Cameroon it means all mining activities consisting of extracting and compacting mineral substances using manual methods and processes with little mechanization (Article 24). In DRC artisanal mining includes all activities where a Congolese national extracts and collates mineral substances in a designated zone for traditional mining and up to a maximum depth of 30 metres using non-industrial tools, methods and processes. In Gabon, it is defined as any non-mechanized mining—Article 102.

In both DRC and Gabon, another distinction is made between small-scale industrial mining and small mining operations.

In all the countries, the law takes into account environmental concerns. Nonetheless, the mining code in DRC is more detailed in its provisions than is the case for the other three countries—344 articles against 116 (Cameroon), 156 (CAR) and 220 (Gabon).

3.11.2 Hydrocarbons

Cameroon, CAR and DRC affirm their ownership rights over oil.

- Cameroon: “Deposits or natural accumulations of hydrocarbons in the soil, under the soil of the territory of Cameroon, discovered or not, are and remain the sole property of the State. The State exercises sovereign rights on the entire Cameroonian territory” (Article 3).
- CAR: “All deposits or natural accumulation of hydrocarbons in the soil or underground in the Central African Republic are and shall remain the sole property of the State” (Article 3); and “The State shall exercise sovereign rights over the entire territory on matters relating to prospecting, research, exploitation and transportation of hydrocarbons” (Article 4).
- DRC: “By virtue of provisions in the Constitution, the Congolese underground is and shall remain the property of the Nation and includes mines, quarries, water sources and hydrocarbons” (1st Article of Order-law 81-013 of 2 April 1981).

With regard to the exploitation of deposits, in Cameroon, any person can engage in oil transactions (Article 4). Article 5 indicates that the state reserves the right to conduct mining activities either directly or via corporations or public bodies duly commissioned to this effect. Article 7 provides that an oil contract can only be signed with one oil company or jointly with several business companies with at least one of them being an oil company.

Two types of oil contracts exist: concession and share production.

In CAR the state can undertake all oil transactions either directly or through a state company, or through a contract with a competent company according to the provisions of the law (Article 5).

Mining rights for hydrocarbons in DRC can only be granted to moral persons whose social purpose is limited to scouting and exploration, exploitation and processing of hydrocarbons and transactions that favour such an undertaking. Mining rights for hydrocarbons are granted via a convention.

The exploitation of mines as well as of oil does not seem to provide any major benefits on the livelihoods of the people since all the substances extracted from the ground are exported to the North for processing, while such operation could be done within the country of extraction with attendant positive consequences such as job creation and hence, poverty reduction.

None of the laws stipulate an obligation to transform the extracted raw materials.

4. Experiences of Land Policy Formulation

4.1. Definition

A land policy is the course of action defined by the state in order to govern:

- Modalities of access to land (in rural and urban areas) and natural resources;
- The modalities of land acquisition; and
- Security of rights to land and natural resources, usage and management of space.

A land policy is invariably determined by national and international challenges, which are economic and political. These challenges may vary depending on political and economic orientations of the concerned country.

A land policy is always intimately connected with a social project. Therefore it serves political, economic and environmental objectives and is influenced by related strategies. It therefore always relies on tools and instruments for achieving the pursued objectives (Ciparisse, 2005).

In this study, policies are understood as formal or informal discourses from public authorities expressing their vision and orientation that guides public action related to land. But beyond discourses, land policies must also be investigated within the silent land practices and direct and indirect interventions, initiated by the state. If it is clear that the responsibility and legitimacy of the state in formulating land policies must be acknowledged, one should equally bear in mind that the effectiveness of these policies depends on the degree of participation and involvement of non-governmental players, especially the civil society, farmers' organizations, traditional authorities and the private sector.

All of the above, it is the responsibility of the state to coordinate national land policy, which obviously implies a participatory and inclusive approach. If the state is the main facilitator of land policy processes, current principles of land governance assume that key land players need to be involved in the process of land policy development. For a policy to be termed as national, it must emanate from the state and address the whole national territory.

A national land policy can be either active or passive. It is active when the state goes beyond formulating the policy and effectively address the implications of implementation processes, in particular at the level of the central administration. The policy is passive when the State simply formulates the land policy framework and leaves the implementation to other institutions, mainly local authorities and other public authorities.

In summary, land policy is the course of action determined by the state in order to organize:

- The modalities for access to land in rural and urban areas, and access to natural resources;
- The modalities for acquiring land;
- The modalities for use and development of land; and
- Security and protection mechanisms of legally recognized land rights.

The development of a land policy is always influenced by national and international challenges, which are economic, social, ecological and political in nature.

In the wake of rural exodus, new neighbourhoods spring up and expand in the outskirts of towns. Public authorities intervene only after this process has taken place. The settlement of the newcomers is mainly due

to the ambiguity of land laws which allow greater access to land by many people, but also prevent the state from controlling urbanization on the outskirts of the town. Indeed, the high demand of land for building is an incentive for most traditional chiefs to use their powers to subdivide the land heritage of their clan. To curb this commercialization trend of land, the state must anticipate the expansion of towns by first freezing all land in the periphery of the town and then undertaking the subdivision of the land before the needs arise.

4.2 Objectives and complexity of land policies

The main objective of land policies is to determine how land will be used for sustainable development: economic, ecological, social and conflict prevention and consolidation of peace. It is self-evident that without appropriate land policies conflict prevention and national and regional integration remain elusive.

Land policies are somewhat unique in that they deal with a resource, land, which is a direct or indirect foundation for all human activities. Land is also a unique resource since its value surpasses its role as a simple factor of production. From an economic perspective, the value of land changes not only due to its location or its agricultural value but also (and especially) because of its role in urban development and agricultural production. Beyond its practical use value or market value, People in Central Africa more than anywhere else give a prime consideration to the transcendental, mystical and sacred dimension of land. That is why there is a persistent legal dualism of statutory land law and customary land law which complexifies the formulation of land policies. In their development as well as implementation, these policies are mainly governed by statutory land law and by the claim of state monopoly over land, which is recurrent in the whole region. The complexity of the implementation of land policies relates to the following considerations:

- Land policies apply to areas as diverse as urban and rural areas, pastoral and forests ecosystems and coastal zones.
- They must be adapted to different categories of spaces (private, public, protected areas, community resources, etc.).
- They stage a diversity of players from various economic and social levels (local poor people, marginalized indigenous people, rich property developers and administrative elites).
- They must adjust according to fast-changing social dynamics (population, migration, pioneers, refugees, urbanization, etc.) and long-term ecological changes (droughts, floods, etc.).
- They must adjust to diverse local and regional contexts.
- Finally, they accommodate a wide range of land traditions in the country due to multiplicity of ethnic groups and cultures.

These main characteristics, especially the diversity issue, may explain the origin of state intervention in land issues. Public administration has had to intervene in land markets to correct what could lead to unacceptable social change, economic problems and ecological damage, etc. All these interventions—which may be considered as part of land policy—can pursue the following objectives:

- Planning and urban development that is coherent and rational (it is not clear whether the market forces can do this) in ensuring good synergy between the various city authorities. This is the aim of urban planning.
- Preservation and sustainable use of natural resources (forest, mineral resources, etc.).

- Promotion of economic development through combating land speculation in urban and peri-urban and developing appropriate measures to encourage investment.¹³ These objectives of economic development should also target agropastoral development, especially in countries where pressure on land is moderate.
- Taxation through various fiscal measures to improve the finances of the state. All the countries in the region have tried to implement this fiscal component of land policy with mitigated success.
- Preservation of civil peace and social equality. Although it is implicit in general, this objective should be considered critical since it is the cause for hesitation of the state to implement certain measures of the land policy (cancellation of fraudulent land titles, etc.); in Burundi, in particular, this is a priority in view of the high pressure on resources.

When the coherence of these objectives is assessed, contradictions emerge in many countries between planning and conservation of resources, recovery of surplus value and promotion of housing, controlled development and free market forces, etc. Therefore one must assess the appropriateness of policies with respect to the objectives set and through questioning the effectiveness of the implementation of these policies on the ground. Above all, stakeholders must be involved and their perception of the land policy implementation should be seriously taken into consideration.

4.3 Overview of the context of land policy formulation

A review of the land policy implementation processes in Central Africa reveals several commonalities in the region.

The current land policies are built on weak, unstable and, in most cases, inappropriate foundation. In almost all countries in the region, the policies were formulated and implemented by the former colonial powers (Belgium, France, Germany, Spain and United Kingdom). The inability of these policies to take the local realities into consideration has led to the emergence of multiple systems that duplicate or neutralise each other. Although land policies in Central Africa give very little attention to traditional local practices of use and control of land resources, they have also unfortunately maintained some weaknesses inherent to the indigenous practices. This is the case where discriminatory practices are applied against some vulnerable groups (women, youth and migrants). The same applies to the principle of inalienability of land in areas of high population density.

Sharing responsibilities is critical if land policy is to be efficient. Responsibility for land management should be shared between central government, local authorities and traditional institutions. From there, the nature of the relationship between the various stakeholders (landlords, planners, builders, local governments and intermediary agents) might be questioned:

The land policy of Gabon was clarified in 1997 by a statement of the Minister for Planning, Environment, Housing, Towns, in charge of national planning. “As far as the land sector is concerned, the thinking must focus on: revising land procedures that slow down access to property; drafting of a land Code; review of the current land taxation which generally forms the basis for financing local authorities; and on novel modalities for access to property with a view to suggesting concrete measures for the Investments Charter.”

Four main objectives are assigned to this projected land policy:

¹³ In all the countries covered in this study, speculators control land transactions, especially buying at throwaway prices from rural communities and offloading them later at exorbitant prices. At times, the agent waits patiently for the land to add value thanks to basic amenities such as water, electricity, telephone that are built by the State.

1. Simplification of procedures that slow down access to property

The main measure would be direct allocation of lands as full property. This would make a significant improvement to the current system of provisional land certificates, which is based on the principle that land belongs to the state. But the development of the allocated land shall remain mandatory to the beneficiary.

The initial procedures which slows down the process would be rescinded. However, urban lands held under provisional concessions and that were tax exempt will henceforth be subjected to a land tax. This reflects the need for control of the state, which will depend on the one hand on the dissuasive nature of the land taxation, especially for players who indulge in land speculation without any prior land development, and on the other hand on the implementation of a fair and equal land taxation system. The success of such an initiative would depend on the modernization of surveying, revision of urban maps and effective mechanisms for institutional coordination.

2. Codification

The report of the Gabonese reflection commission on land indicates that: “in the area of land, there is a plethora of regulations as evidenced by the current inventory of urban laws, environmental laws and land planning laws. However, the link between these laws is not always apparent and it would be salutary to bring them together in a proper land code. The reflection will highlight those laws that are useless and those that are irrelevant and clear them out in order to have a simpler system”¹⁴.

This approach draws from the attempt in France to codify the entire judicial system. The challenge of codifying laws on environment is a pointer to the diversity of viewpoints and the interest of the administrations involved, and the impossibility of arbitration in the absence of a strong political will.

“With regard to the administrative phase of land allocation with provisional certificates that become permanent upon development of the land, can be simplified and reduced to permanent allocation if fiscal pressure is maintained on non developed lands, in order to avoid freezing lands and expression of fallow lands within towns”¹⁵.

Mending the legal fabric will not replace a new legal garment, especially if the rural development policy will work toward achieving its own ends.

3. Equitable land taxation

Since fairness is the declared objective, the report cited above observes that “it is necessary that the charge be distributed which means an exhaustive identification of land base. The delay in surveying in order to create plots and assess fixed assets in relation to real occupations of land makes this task particularly onerous. A tax based on current surveys could encourage illegal activities; also the setting up of a land tax must on the contrary lead to regularization.”¹⁶

This urban diagnostic does not address situations in rural areas where uncertainty regarding “owners” is too common. The objective of generalizing land taxation system is therefore an inevitable perspective of any land policy, but it has remained an unrealized objective for a century.

14 Presentation paper on the missions of a reflection commission of the Ministry of Cadastre, habitat, housing, urban development and spatial planning, dated 24 April 1997. P. 4.

15 Presentation paper on the missions of a reflection commission, op. cit.,

16 Presentation paper on the missions of a reflection commission, op. cit, p. 4

4. *The new possibilities to access to property*

The above cited report is less clear on the issue of new possibilities to access property and only indicates that “the current regulations, adapted to individual allocation, does not respond to the need of promoting big housing projects in order to meet the shortfall” (p.5).

This orientation paper on the land policy states that:

“In a complementary fashion, a deep analysis should be done by our researchers (teachers, geographers, sociologists...) in order to better mainstream the cultural dimension in land laws. Future reflections will bear on the relationship and impact of urbanization on traditional human settlements and on problems that urban development brings to the spaces reserved for customs and traditions” (p.5).

Although the orientations in this scenario of simplification and rationalization are very encouraging, the challenges and obstacles identified have made the policy remain random since the beginning of this century. Shouldn't there be some innovation in order to ensure that the same causes do not produce the same results?

5. Implementation of Land Policies and Subsequent Reforms

5.1 Agencies in charge of implementation of land policies in Central Africa

Many types of agents are involved in the implementation of land policies. Some agents are formally mandated to implement the policies because of their expertise (mining surveyors by the Ministry of Mines, forest surveyors for Ministry of Forests); other agents play the limited role of applying specific tools (conflict resolution with a penal, fiscal or social dimension). Another category of agents is indispensable due to absence or inefficiency of the state in certain areas: these are neo-customary agents, informal surveyors, etc.). In some cases, the agents involved change according to the level of decentralization in the country while others change due to land challenges. In this study, we distinguish three main types of land agents: state agents, national non-governmental organizations and regional or international agents.

5.1.1 State agents: the persistence of a monopoly

The state is an institutional agent whose role commences right from the stage of drafting the land policy. In all the countries investigated, the state has perfected institutional and regulatory tools to control the land sector. Thus, in DRC, the Ministry of Land Reforms and Preservation of Public Lands is the institution in charge of policies and land regulations, although Decree no. 2006-255 of 28 June 2006 created an *ad hoc* body for recognition of customary land rights.

Equatorial Guinea appears to have a strong model of centralization in drafting and implementing land policies. By virtue of the provisions of Article 29 of the Constitution of this country, the state recognizes private and public property; the Constitution guarantees the inviolability, provides for expropriation for public utility, determines the legal origin of public property and guarantees property for farmers. Three main ministries are involved: the Ministry of Planning, the Ministry of Agriculture and the Ministry of Fisheries and Environment.

In Gabon, the state is as omnipresent as in Equatorial Guinea in the drafting and implementation of land policies. Thus, the current procedure of obtaining a land title requires the involvement of seven state institutions or organs: Surveying, State lands, Cabinet, Urban Directorate, Allocations Commission, Land conservation, and the Tribunal.

In most of the countries in Central Africa, the state has created structures or parastatal agencies with the specific mission of implementing land policies. At times, these agencies function like banks such as the Housing Bank of Gabon (BHG) whose main objective is to promote social housing. BHG was created by the state to provide a banking institution capable of addressing the critical investment deficit in the land planning and urban construction sector. The Land Bank of Cameroon (CFC) is a banking institution with objectives similar to those of BHG. The Planning and Equipment Mission for Urban and Rural Lands (MAETUR) and the Industrial Zones Planning and Management Mission (MAGZI) are structures set up in Cameroon to implement land policies.

The roles and duties devolved to these parastatal organizations change depending on the challenges in the country in question. Thus, to resolve problems relating to land and other properties of Burundian refugees since independence, the National Commission on Lands and Other properties was created in 2006 under the office of the Vice-President.

In DRC and in Burundi especially, agents change depending on the size of the land to be allocated. Thus, in DRC, the President of the Republic must intervene by decree for any portion of state land between 1,000

and 2,000 ha in rural areas and between 50 and 100 ha in towns before it is allocated to a third party. The Governor of the Province also sanctions lands with a surface area of up to 200 ha in rural areas and 10 ha in towns. The commissioner of lands delivers titles for plots of less than 10 ha in rural areas and not exceeding 50 ares in towns.

In Burundi, Articles 253 and 254 of the Land Code stipulate that transfer or concession of rural land of an area of more than 50 ha or urban land of more than 10 ha must be authorized by a Presidential decree written on proposal from the relevant ministry. The Minister of Agriculture can grant transfer or concession of a rural land—belonging to the private State domain—of more than 4 ha, but not exceeding 50 ha. The Minister of Urban Planning may grant a transfer of urban land of an area of less than 10 ha. The Governor of the Province may grant transfer or concession of rural land in the private state domain of an area of not more than 4 ha.

In Chad the role of agents in the implementation of land policies is of interest in urban settings, in general, and in N'Djamena in particular. This is due to climatic factors and to insecurity caused by persistent wars that force people to flock to towns. The Ministry for National Planning, Urbanization and Housing is responsible for urban planning in Chad. It plays a central role in the drafting, implementation and monitoring of policies relating directly or indirectly to land. It acts through 3 main institutions:

- The Directorate of Urbanization, which is responsible for developing and implementing urban planning, creating and managing land reserves in urban and peri-urban zones.
- The Directorate of Cadastre is responsible for demarcation operations and allocation of urban, peri-urban and rural lands, and adjudication of state lands. It is also involved in subdivision work, restructuring and boundary marking for urban lands.
- The Housing Directorate is responsible for defining technical conditions for a housing policy (self-construction, construction materials, housing promotion, etc.).
- The Directorate of Registry of Lands, Stamp Duty and Land Conservation is in charge of collecting the various land revenues. Its terms of reference are included in laws 23, 24 and 25 of 22 July 1960 and cover all state lands in the country.
- Besides these directorates, the land allocation commission in towns (CATZU) was created to facilitate access to property in towns.

5.1.2 Local land practices

Local land practices are an admixture of various customary, islamic (in the case of Chad), colonial land systems and land laws after the independence of the Central African countries. These local land practices become indispensable due to the ineffectiveness of the official systems to protect land rights. In Central Africa, cultural diversity and the historical context are important factors in explaining the local land logic.

According to Ouédraogo (2002:83): “the concept of local land practices postulates that at the local level, the local players show a capacity to constantly invent new norms and have remarkable skills to adapt to new political, legal, demographic and ecological contexts.”

According to Le Bris et al. (cited by Ciparisse, 2005:157), land policies are more often than not mixed up and have many interpretations. They are different depending on the type of place and usage of the space.

Local land practices may govern farm lands, pastoral areas, fishing zones, forest and mining exploitation. They can also apply to urban, peri-urban and rural lands as well as to land conflict resolution mechanisms.

Due to their variety and peculiarities, it would be impossible to describe and analyse local land policies within the framework of this study.

Despite the peculiarities of some practices, there is an increasing tendency to base land transactions on written documents in all the Central African countries. Lavigne Delville (2002) described and analysed popular land practices and their use of written documents. Although the study was limited to a few case studies, the conclusions are valid for Central African countries. In this region where “economic and social situations are in rapid change with a proliferation of standards and a competition between organs of arbitration, the players are not passive. They invent many institutional arrangements and new contractual procedures. Even if informal and not fully developed, there are procedures followed by players which are more or less effective and end up bringing some elements of stability” Lavigne Delville, 2002 PAGE NUMBER?)

Local land logics are legitimized by people and are vibrant despite attempts to suppress them. Although considered illegal by law, they are still tolerated. Besides, things cannot be any different since the practices are legitimized by the people while land practices based on modern law are not accessible to them. Due to the adherence of local people to these local practices it is worth better analysing them in order to draw positive lessons which can feed the development process of land policies.

5.1.3 Non-state land actors: more tolerated than recognized

In Central Africa, the number of unplanned and undeveloped subdivisions at the outskirts of towns reveals the dynamism of non-state players in urban production. Durrand-Lasserve (2006) qualifies them as neo-customary players who are at the margins of processes for planning the occupation of space and who manage to cover more than half of the demand for building plots in towns. In Yaoundé more than 70 per cent of the population in peri-urban neighbourhoods occupy customary lands. Since the state cannot meet all demands of poor urban people and in view of how slowly private developers invest in these areas, most of the countries do not formally recognize these players, but tolerate them. In Chad where the policy for access to land property in town is mainly based on subdivisions and in Burundi where customary law is formally recognized, these neo-customary players have no place.

In addition to these neo-customary players, there are occasional housing developers. In fact, these are speculators who buy customary lands and resell them after minor developments. Generally, a few access roads are more than enough. Access to drinking water, electricity and telephony are left to the government which intervenes only when health conditions have reached a critical level or where private companies in charge of water reticulation or electricity find it profitable to extend these services to these peripheral areas.

Recently in the peripheries of some towns in Central Africa (Cameroon in particular), a new practice has emerged where some businessmen pre-finance the entire procedure of acquiring land titles and hasty land subdivision by customary owners, in exchange for a third or a quarter of the land. Urban growth, but mainly the inability of governments to avail developed and protected plots to city residents creates a favourable opportunity for the emergence of neo-customary players. The fact remains that these practices pose problems of land insecurity and unplanned urban expansion.

The inability of governments to control land issues is not only in urban areas. In the countryside of the Central Africa region, especially where the absence of forest resources does not incite the government to develop the area, the role of traditional systems remains critical in land management. The areas of intensive livestock farming in northern Cameroon and in the eastern part of CAR fall into this category. In some cases, the local administration declares its opposition to any form of demarcation that would engender more problems than it will solve (Seignobos 2006). Other examples highlight the role of private agropastoral societies which, in order to protect their own interests, side with communities of new immigrants who are more enterprising and active in cotton production. The role of Catholic missions and non-governmental organizations (NGOs) is increasingly highlighted in conflict resolution among agropastoral groups and in supporting the rights of new immigrants by opposing the traditional authorities of northern Cameroon. In

Angola, the NGOs are more active in towns. In Luanda, for example, they are involved in awareness campaigns and capacity building for people threatened by clean-outs in towns and in lobbying for recognition of rights of poor people in poor neighbourhoods.¹⁷

5.1.4 Regional and International players: A welcome facilitation but the effort is still scattered

The role of regional players can be direct or indirect. The players who intervene directly are those who develop land policies and reforms. This role is rather recent and is due to the awareness of linkages between land tenancy and development, and land context and sustainable development of resources. The most active among these players are ECA, UN-Habitat, the Food and Agriculture Organization of the United Nations (FAO), AU, CEMAC and the New Partnership for Africa's Development (NEPAD).¹⁸ These players are involved in broad thinking at the sub-regional level to identify the limitations and advantages that may influence the drafting and implementation of land policies. This is a collaboration that recognizes the need to institutionalize approaches and to strengthen land governance through strengthening civil society. However, it appears that most of these players act in isolation or even in competition with each other.

Some regional players intervene occasionally in land issues in Central Africa. These are players such as the Central African Forests Commission (COMIFAC) which enjoys support from donors and countries to ensure sustainable management of forests in the Congo basin. The same applies to the regional programme the Guinea Current Large Marine Ecosystem (GCLME) whose members comprise Angola, Cameroon, Equatorial Guinea, DRC, Gabon and Sao Tome and Principe. Under the coordination of the United Nations Development Programme (UNDP) and the United Nations Industrial Development Organization (UNIDO) this programme aims, among other things, at integrated management of coastal zones and deals with land issues that undermine the coveted zones. Despite the relevance of their role the actions from this category of players are yet to be harmonized and coordinated. A network should be established to give prominence to the initiatives of all players. This would complement resources and avoid wastage of effort.

Whether state or non-governmental, or national or regional, these players have not succeeded in dealing with the challenges of land protection and fairness in access to property. The problems are due to lack of coordination resulting in duplicating efforts, and lack of a framework to define the roles and responsibilities and assess, using appropriate tools, the impact of the efforts provided. In addition, formally recognized players who represent communities are lacking. Consequently, the system is non-participatory, top-down and incapable of responding to the various challenges of development that are inherent in land policies. Finally, governments do not seem to be aware of the urgency of the issue of capacity building among the players in this sector.

¹⁷ These NGOs sometimes organize themselves in networks like the Forum for Land Reform in the Huila Province.

¹⁸ Thus, in Angola, a few months after the war, the new land law was jointly developed by the Ministry of Agriculture, the National Directorate of National Planning and FAO.

5.2 The gap between speech and reality

To address this state of affairs, the Government of Gabon undertook several actions to make some zones viable, construct socio-economic homes, create new neighbourhoods, set up technical structures (SNI) and financial structures (FNH, the Gabon Land Bank and CRH). Despite these efforts, 20 years later Gabon is still faced with lack of building plots and housing. In all the countries investigated, the rapid expansion of towns has surpassed the ability of the Urbanization, Housing and Surveying departments which lack human and financial resources and are faced with high costs of production. Moreover, the technical and financing bodies are constrained by:

- The problem of acquiring property title;
- Lack of information and awareness;
- Ineligibility of poor people due to low pay; and
- The relatively high cost of proposed housing.

A recent sectoral analysis depicts Gabon as follows:

- Deficit in new homes—130,000 units in 20 years;
- Need to upgrade insanitary homes—an average of 1,500 homes per year; and
- Medium-term needs—160,000 homes to be constructed within 20 years.

The fragility of housing that affects 8 per cent of homes is consequently one of the major features of Gabonese society.

At times, real political will cannot be affirmed due to lack of realistic strategies and appropriate tools. Thus, Article 2 of the Decree of 6 February 1967 stipulated that any Gabonese occupying land for at least five years could, on request, within two years obtain permanent title to the land within the limits of 100,000 m² in rural areas and 2,000 m² in towns. The mechanism introduced an interesting aspect, although preliminary, for land acquisition. However, the applicant was subjected to the same tedious and costly formalities. As a result, many people could not regularize their lands within the stipulated two years. This is a flagrant case of the ineffectiveness of land policies.

The absence of housing plans has led to a piecemeal policy of offering homes that is expensive and without proper planning of human and financial resources.

Self-construction, which affects 80 per cent of homes, was neglected. The production of developed lands cannot meet the demand which pushes most of the people toward living in squalid conditions that expose them to health problems and natural catastrophes. In total, Libreville has 30,000 unfit homes, which account for 40 per cent of the current urban homes in the city.

In Cameroon, for several years now, people native to Mbanga Bakoko (next to Douala) wanted the government to return 141 ha of land that it expropriated in 1986 to resettle people who had to move to make way for development of roads.

In DRC confusion in access to property and security of tenure have been the norm since the land law of 1973 was passed. The law, as opposed to colonial law, institutes the monopoly of the state while making provisions for “later legislation on lands occupied by local communities by virtue of custom”. This subsequent legislation has yet to come, resulting in the local elite grabbing and speculating on community lands. The elite, according to their interests, invoke modern or customary law to obtain personal titles for rural land. The confusion in land matters is summarized by J. C. Willame (2007) as follow:

- Entanglement of land law with the political system in the customary organization;
- Lack of survey maps for customary lands as opposed to granted lands;
- Empty lands that had been granted, but whose titles and owners have disappeared;
- Generalised corruption in the land registry; and
- Arrogance of some “top” citizens who claim to be the new property owners.

In Burundi¹⁹ land resources are mainly managed by the Land Code of 1986 (law no. 1/008 of 1 September 1986) which determines the regulations applicable to recognized rights in state and other land in the country.

Domain lands are either the public or private domain of the state or, belong to public institutions and public companies. Domain lands are classified in the public domain of the state and are indefeasible. Conversely, non-domainial lands belong to owners by virtue of customary law.

5.3 Main instruments for implementing land policies

It is important to differentiate whether the land is urban, rural or forest areas.

5.3.1 Implementation tools in urban spaces

Implementation tools are legal and regulatory instruments derived from penal provisions and compiled, in most cases, in the urban laws (Law No. 2004/003 of 21/4/2004 for Cameroon and Law 3/81 of 8 June 1981 for Gabon).

In Cameroon, Article 25 of urban law acknowledges the firm will of the state to manage urban lands in order to promote urban development: “Urban planning documents determine the conditions that limit the use of space, manage relocation needs, preserve farming activities, protect forests, cultural heritage, sites and natural and urban landscapes, prevent natural risks and technological risks, as well as pollution and all manner of pollution. The documents also, provide enough space for construction, economic activities and other activities of public interest, in order to meet the current and future needs for public housing and development.”

The law empowers the state and decentralized authorities to create land reserves (Article 91) in urban and peri-urban areas. To create the reserves, the authorities are empowered to acquire lands and real estates through common procedures which include, incorporation, expropriation for public utility or in exercise of pre-emption law. In Article 94 of the same law, it is stipulated that any allocation in the urban reserved land is subject to the development and approval of an appropriate development plan or an urban planning document.

Urban legislation in Gabon is based on Law 3/81 of 8 June 1981 which determines the regulatory framework for harmonious and rational development of neighbourhoods, and ensures the safety and welfare of residents (Law 3/81, Art.1). The law provides two main instruments for urban planning: the Guidelines for Planning and Urbanization (SDAU) and the Land Occupation Plan (POS). The Ministry of Urbanization and Housing has the duty to draft and implement them.

SDAU delineates the general orientation of the land; main appurtenances; plan of roads and other networks; location of services and activities; and is accompanied by regulation determining the constraints relating to land use. SDAU can be complemented by sectoral plans. These planning documents are adopted through minutes of the municipal councils and approved by Cabinet.

POS determines general rules and constraints on land use. It contains a delineation of urban zones; reserved

¹⁹ For more information on land issues in Burundi, see Ouédraogo (2007).

zones; layouts, width and characteristics of roads; areas to reserve for roads and public works; and the definition of rules for construction, their orientation, nature, external look, dimensions and planning of access. The application of the two instruments (SDAU and POS) goes through two important documents for space planning: one pertains to the government strategy to have enough room for manoeuvre in order to achieve its mission of urban development. The second is more directly linked to immediate needs in the short term for housing and consists of implementing the operations for planning and subdivision.

The real estate planning zones (ZAI) are areas that the state has granted to public or private developers to conduct operations for planning and fittings. The terms for such operations are set out in an agreement.

The subdivisions are among the main tools for planning urban spaces. The law provides three types of subdivisions: residential, commercial and environmental. Residential allocations that concern us are reserved for construction of houses and businesses. Planning and development work is subjected to a licence to subdivide issued by the Ministry of Urbanization and Housing.

The reality is more complex. Procedures for implementing SDAU and POS are complicated and onerous. A law that is so well defined has no concrete effect, so much so that until recently Libreville had no SDAU or POS.²⁰

In this area like in the area of land, Gabon has legal instruments of great quality, but it must lower its standards to make them applicable on the ground. How then can the gap between very detailed documents and the perennial problems of urban planning be understood? In truth, in all the cases studied, the instruments were victims of their own rigidity; they bear in themselves the seeds of their inapplicability and ineffectiveness.

Whereas the Western countries whose models inspired the African legislators are concerned with effectiveness and simplification of instruments for urbanization, the countries in the Central African sub-region continue to apply laws that date from the colonial era. Gabon has antiquated and impractical legal documents. The same applies to Cameroon where SDAU exists for most large towns, but has yet to be implemented. In 2007 Yaoundé embarked on an urban cleaning and renovation campaign to redress decades of blind implementation.

In DRC The National Action Plan for Housing was adopted on 8 March 2003. The plan was accompanied by the Interim Priority Programme (PIP) which defines several projects in the provinces formerly controlled by the government. Kinshasa has a SDAU since 1976 and a National spatial Planning tool (BEAU) since 2004. As in the previous examples, this action plan has not been implemented and its funding not yet finalized.

In most cases, private developers who are interested in developing and commercializing plots are unable to acquire empty lands. Such a developer must first apply for a temporary lease, develop a plan for subdivision and build the infrastructure and the homes before obtaining a permanent lease. These terms are difficult for private developers who cannot invest money without a guarantee that they will have permanent leases.

In some cases, the land administration grants land to various speculators who opt for acquiring rural lands belonging to the state and near big towns. These practices cause problems in land governance and, at times, in capacity and effectiveness of the administration. In most cases, conflicts emerge between grantees and communities who exercise customary rights on the disputed lands. The resolution of such disputes takes more than a decade. The Ministry of Lands and Real Estate Affairs in Cameroon cancelled disputed land titles between an individual and three local authorities.²¹

20 In the urban strategy in Gabon, no POS was approved for the period (1979-1999). The low production of regulatory instruments belies a real problem in the implementation of land policies in towns of Central Africa.

21 This was biggest decision taken by the Ministry of Lands and Real Estate Affairs since its appointment on 7 September last year. Regarding the two laws adopted on 10 October 2007, Pascal Anong Adibimé states: “the public nullity of the land title No.37123/Wouri [...] and the withdrawal of land title No. 34883/Wouri in application of provisions [...] on domanial land.” Consequently, the two plots of an area of 1,000 ha became, according to the terms in the ministerial orders, national property. In *Le Quotidien* MUTATIONS of 19/10/2007.

In Chad, the legal instruments used to implement urban policies are very old: laws 23, 24 and 25 of 22 July 1960 on domanial property, landed property and customary law, limits of land law and application decrees no. 185, 186 and 187 of 1 August 1967. The documents explicitly provide that subdivision is an essential mode for generation of urban land in N'Djamena. But in practice, there are two concurrent modes.

The initiative to subdivide originates from the Ministry of National Planning, Urbanization and Housing whose technical departments conduct the relevant surveys (Moussa and N'Dilbé, 2006). Construction sites created by the subdivisions are then granted to users by a commission: the Urban Zone Land Allocation Commission (CATZU).

In summary, instruments for the implementation of land policies are characterized by internal rigidity, impracticability, and inability to produce protected urban lands. Unfortunately, through SDAU and POS and subdivisions, governments in the region continue to commission documents which do not reverse previous trends. Evidently, public production of construction land and housing is in limbo. This is irrefutable evidence for the failure of land and housing policies led by the states and the inability of the private sector to meet the rising demands of city dwellers. This opens an avenue for the emergence of neo-customary or informal systems of land production and management (Durand-Lasserve, 2004). For example, Durand-Lasserve (2004) reports that in Yaoundé more than 70 per cent of the people in peripheral areas live on customary lands. In spite of their flexibility and the fact that they enable many new town-dwellers to acquire plots, these systems appear incapable of producing developed urban lands that average people can afford.

5.3.2 Ineffectiveness of urban land policies

A mission report by Comby (1995) for Libreville underscores the alarming fact that only 10 per cent of the 60,000 occupied lands have a land title. A detailed analysis shows:

- 6,000 properties have a title;
- 6,000 plots have provisional leases;
- 16,000 demarcated plots were still waiting for the finalisations of procedures; and
- 32,000 constructed plots were created without any land procedure.

Although only 1 out of 10 plots have a land title, the analysis shows that in terms of volume the situation has become worse. Less than 100 titles issued per year and yet about 1,000 new plots are created with half of them having normal temporary leases, and 4,000 new homes are constructed on about 3,000 plots.

At the current rate, in 10 years and in the best case scenario, the situation will be:

- 7,000 plots with titles;
- 10,000 plots with temporary leases;
- 21,000 plots created following procedure; and
- 52,000 constructed plots without any procedure for 9,000 plots in all.

Although all the vacant plots (and most of the constructed plots) belong to the private estate of the state, it is hard to understand why the land system is unable to meet the basic needs of the people.

In Gabon, the Department of Urbanization, DAACO the Department for Assistance in Self-construction (DAA-CO) and the Urban lands Allocation Commission (CATU) have failed in their task to avail protected plots to city-dwellers. An Estates Investments Code provides fiscal and customs incentives for house construction projects of at least 100 homes. Unfortunately, the programme has been derailed by a new fiscal and customs law with a less human face. The main problem is developing the plots to provide for roads and various other networks.

The same situation prevails in Cameroon where Ministry for Planning and Development of Urban and Rural Lands has failed in its mandate to increase the rate of access to housing for middle-income city-dwellers. The pace of developing these lands is very slow and the prices of the developed plots and rental houses are prohibitive. The Land Bank of Cameroon (CFC) is no different since its products remain inaccessible to the average Cameroonian.

Although subdivisions are the main mode of production of urban lands in Chad and the state attempts to pre-finance them, the allottees construct their own homes, but many fail to pay the government for their plots. As a result, out of the 65,000 plots recorded in 2004 in N'Djamena only 20,000 are officially recognized by the state, that is, almost 70 per cent of illegal occupations. To date, only 2,600 plots have been registered, that is, 13 per cent of legal lands (Moussa and N'Dilbé, 2006). In Chagoua, a neighbourhood in N'Djamena, only 385 homes (3.63 per cent) have a land title. Holders of occupation licences are still fewer than those having land titles (2.08 per cent of plots). In Chagoua hardly 2 per cent of land owners have paid at least 25 per cent of the plot price. Only Burundi has higher proportions of holders of land titles, that is, more than les 35 per cent.²²

There are cases where the urgency of the challenges is such that the state is compelled to decide on a case by case basis without any policy informing the decision. Thus, in 2006 the Angolan Government gave three years to Luanda residents who were illegally occupying their plots to regularize their situation. It is doubtful whether the land administration was able to deal with the large number regularizations in the time stipulated. The situation will inevitably increase the number of outlaws and maintain the land crisis. Many NGOs are very active in Luanda where they devote themselves to many cases of evictions or cases where city-dwellers are threatened with evictions. The NGOs are unanimous in admitting that the land policies applied so far favour economic stakes at the expense of social issues.

5.3.3 What tools are available for implementation of land policies in rural areas and forest areas?

In Central Africa very few countries are equipped with tools for implementing land policies specifically for rural areas. In fact, in the country side or in town the same basic principles apply with the monopoly of the state. The countries with high population density such as Burundi are unique. Only rural lands that are in use can be subjected to customary law. However, fallow lands (not left after farming) automatically belong to the state. The problem is that it is sometimes difficult to distinguish state property from private property. But then, the issue is very important when domain lands that are not in use are potentially very important resources.

Marshes are an important strategic resource in countries like Burundi, but their status remains unclear. Marshland is state land if it is permanently covered with water (Decree-Law of 1992 26-11). The foothills are not defined either. Some peasants who would like to use the marshes consider themselves the owners of the swamps they use and at times hive off plots from them in return for payment or for free, by virtue of land code Art. 331 which grants the marshes to anyone who can add value to them.

With the obligation to adjust land policy to the high population pressure, Burundi is still one of those rare countries in the sub-region that has developed specific tools for rural areas. In fact, Burundi drafted a policy and a law for national planning; a planning and development guideline for marshes (SDAMVM) was also drafted and submitted to government. SDAMVM is keen on a specific review of marshes in order to enable the Government of Burundi to make relevant decisions for rational use of these swamps since the latter can be safety valves to ease the pressure on land.

Nevertheless, some specific tools relating to fishing, fauna and flora were streamlined in most of the countries in the sub-region. These include a forest code and forest law.

In total, governments are willing to find solutions to various problems, especially the urgent ones mentioned

²² Urban observatory (Bujumbura) and CREPAO (Pau) (2006).

above. As a result, in Cameroon plans land reform to reduce the delay in issuing titles and also to reduce insecurity of urban lands in particular (see Box 1).

Although the reforms are judicious, their effectiveness remains to be seen. The tendency to assess their effectiveness is yet to be institutionalized. In addition, the real bottlenecks in the implementation of land policies in Central Africa are known. There is probably need for courage to face the said problems (indigenouness and nativeness, sovereignty of state, customary land law and equity in access to land).²³

Box 1: Example of land reform: Issuance of land titles in Cameroon

Excessive centralization, a host of players in the process of issuing land titles and the extensive delays in processing documents were the main bottlenecks to land reform in Cameroon a few years ago.

The reform is contained in Decree No. 2005/481 of 16 December 2005 with the following main objectives :

- Decentralization of expertise and reduction of the number of players.
- Respect for fixed timelines for each step of the process of issuance.

The reform on decentralization of expertise:

These reforms emphasize devolution of powers to several levels such that instead of a provincial order, a decision by the district commissioner or chief is adequate.

In addition, the documents are no longer handled by the Director of Lands and Central Administration (Ministry of lands and Land Affairs), but by the Head of Provincial Land Services. Better still, land titles are no longer established by the Head of Provincial Services, but by the Land Custodians at district level. Finally, disputes are settled by provincial governors rather than by the Ministry of Lands.

Timeliness are also determined for each of the officers involved in the process :

- The District Commissioner has 72 hours to issue a receipt for the submission of the request for a land title;
- The District Commissioner has 8 days to transmit the file to the District Land office;
- The district office has 15 days to establish public opinion on the application; and
- The district office has 30 days to submit the file to the Office of Lands.

Before land reform in Cameroon, the issuance of titles was long, bitter and uncertain. To ensure that the public changed this perception, the reform was accompanied by public information using various channels such as a ministerial magazine, a users' guide and television programmes.

Source: MINDAF (2006) Decree N° 76/165 of 25 April 1976 defining the terms for issuance of land titles, modifies and complemented by Decree no. 2005/481 of 16 december 2005, Yaounde, August 2006.

5.3.3.1 Land issues in the implementation of land policies: Community forests and hunting grounds

In most countries in Central Africa (Cameroon, DRC, CAR and Gabon) the new forest policies appear to emphasize rural community participation in the management of forest resources. The aim is to ensure sustainable management of forest and animal resources and also promote endogenous development of local people. However, these tools raise some misgivings: in Cameroon, an analysis of communal forests

²³ In Cameroon, for example, the terms indigenous/native/minorities appeared in the Constitution a few years ago and have raised very many issues. The term native was first used by French settlers who could not stand the competition from the Bamileke for the fertile lands of the Mungo corridor.

(only 20 per cent of forests allocated from 254 application files received by MINEF since February 2000) indicates that implementation of this policy had a number of hiccups due to internal contradictions in the law, funding of simple management plans and the slow pace of processes and information from the officers concerned. More seriously, a manual for allocations and management standards was produced in April 1998 and a second one in 2003, but the 2003 manual is yet to be approved. Gabon, nonetheless, is exceptional since Article 159 of the forest code provides that the demarcation of boundaries and gazetting of community forests are the responsibility of the government.²⁴

Analysis of the implementation of this forest policy shows that the noble objectives for the preservation of community rights over forest resources and their sustainable use are ignored in the forests allocation process. This process is more concerned about quick financial gains from industrial use of the forests; community forests are tax exempt.

These mechanisms were effected in a number of ways: the law in Cameroon provides that only communities can claim a community forest. Since they do not have the financial wherewithal to create an inventory and a simple management plan they appeal to businessmen to defray the costs. On the basis of agreements that are unfavourable to villagers, the businessmen exploit the forests and only pay the agreed amounts to the communities. Once again, accountability becomes an issue.

In Central Africa, local people suffered from the arrival of loggers as in their traditional conception, forests and what all they contain belong to them.. They could not understand either the creation of so many reserves and protected areas including in areas where land pressure is so high? The protection tools for natural resources are opportune, at times ineffective, but they are always unpopular with local people. Consequently, there are conflicts around the protected areas due to occupation of land reserved for animals and invasion of forest by people in search of new farm lands. Due to population pressure, conflicts between farmers and pastoralists but also between pastoralists and hunting guides are high in the regional agenda. And yet, hunting grounds (ZIC) and community hunting grounds (ZICGC) are provided for to ensure that local people have hunting areas around the protected areas. It is therefore patently clear that ZIC and the community forests cannot address the challenge of conserving resources or enhancing the living conditions of local people.

5.3.3.2. General failure: Management tools for agropastoral and fishing areas

In Chad, CAR and Cameroon in particular, agropastoral conflicts have resurfaced due to high population pressure, drought and production systems that cannot capitalize on the traditional complementarity between agriculture and animal rearing.

The most commonly used tools to control the use of these spaces are mainly of legal and institutional nature. Moreover, there are well established local practices on the matter although they are not recognized by law.

Consequently, in Cameroon, the land reform of 1974 and Decree no. 78/263 of 3 July 1978 created agropastoral commissions mandated at the local level to adjudicate over boundaries for farming, animal husbandry and mixed areas; and settle agropastoral disputes, determine provincial and local routes for the movement of herds and enforce the rules.

The commissions, however, have not operated since 1997 due to lack of funds. In addition, breeders have to meet the running costs of the commissions if they require assistance. The attempts at joint demarcation of boundaries for rural formalized spaces using legal instruments have floundered. In summary, the provisions of these laws are met with resistance from traditional customary rights which continue to apply in most rural lands.

²⁴ In this country, the Associated Forest Licence (AFL) issued for the local transformation of forest resources is only available to citizens; this creates the impression that the government is concerned about the welfare of communities.

In highly hierarchical societies in the northern part of Central Africa (Cameroon, CAR and Chad) traditional chiefs are the custodians of notable power to manage grazing areas. Although there are some kinks in the traditional system of land management (traditional chiefs can allocate grazing areas to outsiders or grant preferential pastures to some individuals), these systems have managed to capitalize on knowledge and skills which have significantly contributed to a measure of stability in pastoral resources. In the countries coming out of many years of armed conflict, ancestral cattle keeping practices are faced with the problem of drastic reduction of pastoral space. The huge areas granted by the government of Angola to some individuals appear to have disorganized the routes and increased the ire of the pastoralists (see Box 2).

Box :The land-grab in Angola

With peace, people are beginning to appreciate the true economic potential of land and with this, have come a wave both of land grabs and of the erection of fences to demarcate farms, which in most cases do not have a clear boundary. It is in the process of defining clear boundaries that the problems start. Land conflicts, unheard of 10 years ago, are now occurring increasingly between residents and internally displaced people (IDPs), and between commercial farmers and pastoralists.

Since 1997, land has been grabbed in the fertile Kwanza Sul province near Luanda, and in the relatively peaceful south-west where there has been a proliferation of ranches and commercial farms. Bledsoe and

Pinto point out in their report that many of the traditional cattle raisers and farmers, believing much of the land in the colonial concessions to be rightfully part of the traditional lands, have reclaimed use of old colonial farm concessions. In addition, conflicts are occurring and will continue as government grants news and renewed concessions of the colonial parcels, or as landowners or concessions holders from the past (especially post-1991) reappear and reassert their rights. Thousands of hectares of land, once solely the territory of pastoral people and their cattle, have become fenced in, now the private property of wealthy new landowners, including government officials. Traditional cattle raisers require more land to sustain increased numbers of cattle, but the carrying capacity of the land has been reduced as the total number of cattle has increased significantly over the years. As commercial cattle ranchers encroach upon lands of traditional cattle raisers, cattle corridors are being closed. Pastoral leaders say the land has been taken illegally and their traditions and customs, passed down over centuries, as well as their livelihoods, are under threat. Commercial farmers have reclaimed the use of old colonial farm concessions; they now occupy this land in addition to the traditional community lands.

Clover (2007:364). XX

In most of the countries studied, the issue of true land reform is raised very often, but never makes the agenda. From the perspective of most governments, the issue is very sensitive since it strains the relationship between government and chiefs thereby accelerating the need for devolution of powers, a concept that governments prefer to slow down.

The answer should emanate from a set of solutions that are adapted to local context without waiting for the codification in form of legal and regulatory provisions that, in any case, have proven ineffective. In some countries, such as Cameroon and Burundi, solutions at local level have been tested. Example are: the Diocesan Development Committee (DDC) in Cameroon is trying to formalize the rights of mountain farmers on the foothills of the Mandara and, not far from there, the DPGT Project mobilized negotiation skills to preserve pastoral rounds and set corridors for animals to de-escalate the tension between farmers and pastoralists. The same case applies to land demarcation between migrant villages in South East Benoue in Cameroon to pacify

the competition between migrants and “natives”, and between migrants themselves, and finally a wider public intervention for land security through a concerted effort in Touroua. These small-scale efforts underscore the possibility of public intervention on land matters, without recourse to the Land Code, but using mechanisms that are closer to tradition since it involves representatives from government, Lamido, pastoralists and farmers.

Some countries like Gabon have other types of tools which could be used profitably to implement the critical aspects of their land policies. For example, the Fishing Code (Law No. 015/2005) not only provides for protected aquatic areas (conservation concern) but also controls the exercise of customary fishing rights. Although the government reserves the right to control these spaces, these instruments appear to grant more responsibilities and powers to customary leaders. Article 42 of the code provides that the exercise of customary rights is open and free within the areas reserved for this purpose (private lands, rivers, streams, lagoons, lakes and flood plains) and that in this case, the activity is not subject to applicable charges, taxes and dues. This is an important gain in the recognition of customary rights. Nevertheless, in practice, continental fishing does not have the means to protect the rights of local communities. In this area, it is survival of the fittest. On the coast, the wharves are threatened by tourism structures when they are not simply forbidden and displaced by private developers.

In total, the impact of land insecurity is worrying in towns and in villages. Land insecurity has proven to be an obstacle to intensive agriculture and rational and sustainable use of natural resources (Lavigne-Delville et al., 2002; Meinzen-Dick et al., 2007; ONU-HABITAT, 2007).²⁵ It is obvious that investment in work and in capital on agricultural lands must be informed by assurance that the land can be preserved and even inherited. One of the unforeseen reasons for the innovation in the process of drafting and implementing land policies is the resolution of land conflicts by traditional and government mechanisms. The persistent and unresolved land strife that has been ongoing for decades has cost rural farmers a lot of money. The conflict is therefore profitable to those who have the power to regulate things, and this slows down their enthusiasm for permanent and rapid settlement of disputes (Teyssier et al., 2005).

5.3.4 Cross-cutting tools for implementation of land policies: Taxes and dues

Various taxes relating to the occupation of space and use of the resource contained therein are applicable in Central African countries. They affect not only the natural spaces (forests and maritime public land and its holdings) but also urban areas where they are known as land taxes. These instruments are meant to contribute to the financial stability of the government and decentralized authorities. The question that should be asked is whether the collected income serves the main objectives of land policy which are equitable socio-economic development, poverty reduction and sustainable use of natural resources.

5.3.4.1 In Urban settings

In Cameroonian towns, land tax is demanded annually on real estate, constructed or not, in chief towns. The tax applies to any physical or legal entities that own real estate including de facto owners. Those who are tax exempt include land or estate belonging to industrial, agricultural or pastoral and fishing enterprises and land reserved for agriculture, pastoralism and fishing. In the same vein, land tax in DRC affects mainly buildings and estates within towns. This option is understandable since in towns, the government has invested in developments on land whose cost must be recovered, but the truth is that the tax is also levied on land that has not been developed. In the absence of proper surveying, the application of this tool is not very accurate.

²⁵ Lavigne-Delville et al. (2002) interrogate the link between land insecurity and production.

Wouatsa (2005) observes that in Cameroon, the onerous fiscal dues are a hindrance to housing plans. The author indicates that the weight of taxes and dues account for 40 per cent of construction cost. It is therefore obvious that the application of this instrument flies in the face of the objectives of land policies for socio-economic development. In the Congo, fiscal instruments for the promotion of urban land policies are less developed. They include taxes for survey and topographical works on the basis of the area in question, and in rural and urban centres, and the dues and charges of land advertisement levied on the basis of the buying price and market value of the land at the time of registration.

5.3.4.2 *Natural spaces*

Natural spaces are under various tax regimes (forest tax, mining tax etc.) in all the countries in the region. Cameroon is the only example in the world where the adjudication process is used to fix the annual forest tax (Rfa) on each piece of land. Karsenty (2005) notes that this system contributed to defusing prior criticism on unilateral and authoritarian determination of taxes by the administration (currently the forest taxes are financial offers determined by competing operators). Conversely, the introduction of competition in granting forest licences (forest management units used in the grants and sales from cuts) has contributed to raising the fiscal pressure on forest societies. There is fear there that these societies do not compensate for the reckless use of resources and are less inclined to contribute locally to the maintenance of the infrastructure or construction of social amenities. It is true that in Gabon and Cameroon the law provides also that forest taxes paid by the forest land owners contribute to local development. In DRC, the new Forest Code (...) provides for a retrocession by the government of 40 per cent of the area tax in favour of local communities where the forest in question is situated. This retrocession is meant for the development of local community projects.

In Chad where there are no significant forests, the government has taken steps with respect to land planning to diversify the National Action Plan to Fight Against Desertification (PANLD) and make it more effective. The PANLD states that “the objective of the mechanism is to protect investment through consultation for better knowledge of taxes for usage of space, amenities and resources. The setting up of a land observatory which is in progress must contribute to the advancement of this approach”.

In general, the application of these fiscal instruments is not uniform and therefore its results are somewhat mitigated. Everything happens as if the income derived from them is used as tool to ease the tensions and defer the grievances of the communities which think that—despite the law that stipulates that land belongs to the state—the money is used to line the pockets of government land dealers. Moreover, the income does not seem to be reinvested in modernizing the structures responsible for managing land resources. In most towns in Central Africa, the unpopularity of land taxes is obvious. Can these instruments cater for the interests of thousands of town-dwellers who live in poorly developed quarters or where the residents have no chance of ever acquiring developed land secured by a land title?

In like fashion, there seems to be danger in maintaining high fiscal pressure on use of natural resources when it is clear that the land dealers, obsessed with profitability, will always look for ways to be compensated, especially by applying more pressure on forest and mining resources depending on the circumstances.

6 – Progress Tracking of the Implementation of Land Policies in Central Africa

6.1 What does “progress tracking of land policies” mean?

The land policies under review here are a set of coherent, systematic and inclusive provisions for setting up a process for access to property while taking into account the conservation of resources and sustainable enhancement of the living conditions of the people. Tracking progress is easier and relevant when the objectives of the policy are clear and accompanied by relevant implementation instruments. In fact, the progress tracking bears on the impact and the implementation process.

The need to track progress of the land policy processes is important for various reasons: firstly, the evaluation of policies should be seen as a process of measuring the appropriateness of means, resources and objectives. It will also help in identifying various sorts of dysfunction and in suggesting ways to rectify them.

6.2 Operational framework

The operational framework for the assessment of land policies is not really different from the one used to evaluate public policies (OCDE, 2007a, 2007b; van Tongeren, 2008).²⁶ The main parameters are discussed below. SUGGESTION TO AUTHOR: LIST 6.2.1 TO 6.2.6 AS BULLET POINTS UNDER SECTION 6.2 RATHER THAN AS SUB-HEADINGS

- Relevance:

This is a parameter to measure the extent to which the objectives of a development action meet the expectations of the beneficiaries (means of existence and fairness), the wider priorities of development and conservation of resources and policies of partners and donors. The issue of relevance of land policies seeks also to determine whether the objectives of land actions are appropriate in view of the changing socio-cultural, economic and political scenes.

- Effectiveness:

This criterion measures the extent to which the objectives of land policies have been achieved (the gap between initial objectives and obtained results), or are being achieved.

- Efficiency:

It measures the extent to which the available resources (funds, expertise, time, etc) are parsimoniously converted into results.

- Sustainability:

It measures the benefits derived from the implementation of land policies sustainable? Can future reforms be anchored in them?

²⁶ Van Tongeren, F. (2008), “Elaboration et mise en œuvre des politiques agricoles : une synthèse”, Working Documents of OCDE on food, agriculture and fisheries, No. 7, OCDE Editions.

OCDE (2007), Soutien à l’agriculture, valeur des actifs fonciers et ajustement structurel : conséquences pour la réforme, AGR/CA/APM(2006)19/FINAL

OCDE (2007), Défis d’information dans la conception, la mise en œuvre et le suivi des politiques agricoles, AGR/CA/APM(2006)18/FINAL, Paris. MOVE TO REFERENCES? OK

- Impact:

It measures Mid- or long-term effects, positive or negative, primary or secondary, that may be directly or indirectly, intentionally or unintentionally imputed to the land policies.

- Coherence/Complementarity

This criterion could have several aspects:

- Internal coherence refers to the compatibility of the various components of the land policies (modern/customary law, conservation, economic profits, etc.). It is about avoiding contradictions and overlaps between various levels of the objectives.
- Coherence/complementarity of land policies with other main components of the national sustainable development policy (forests, fishing, mines, breeding, etc.).
- Coherence/complementarity with other land policies in the sub-region.

6.3 Framework for a systematic progress tracking of land policies

The suggested framework is drawn from the work done by OECD . Proposed key areas to be monitored include: property rights; tenure security and acquisition of state lands from the state domain

Table 5: Assessment table based on OECD work

	Identification/ conformity	Performance	Impacts
Property rights	What rules are effectively applied in the acquisition of property rights?	Do these regulatory tools protect land effectively?	Are the property rights (land titles and all legal frameworks of access to property) conducive to investment, socio-economic development, and conservation of nature?
Land tenure security through issuance of land titles	Are the current procedures for obtaining land titles followed?	What is the number of titles issued in relation to the applications and the entire population?	Has this led to the establishment of a secure and credible private property system?
Acquisition of of state lands	Are the concessions possible, and are they set up according to laid-down procedures?	How many concessions are granted, and to whom?	Do the concessions implement the prescribed development plans and are the rights of the allottees protected?

At this stage, four areas can be used to identify the points to be further examined :

Table: 7 ...

Social domain	Economic/technical domain	Institutional	Legal
Rejection or popular contestation rates of measures and reforms	Cost of the processes Favours land taxes	Plethora of structures involved in the processes Excessive centralization	No alternative mechanism for conflict resolution Ineffectiveness of penal provisions in forestalling land disputes
Discrimination/exclusion in access to property (women, foreigners, other tribes)	Unable to forestall speculative tendencies in the land market Not very motivating for investors	Problem of keeping and maintaining land data Marginalization of customary institutions	Perpetuation of conflict by some arbitration mechanisms
Inability to settle or reduce social conflicts	Clumsiness of the implementation instruments (SDAU, POS)	Lack of clearly defined roles and responsibilities	Ignorance of rights by some groups (pastoralists)
Hardly participatory	Lack of capacity to implement seemingly effective policy instruments (forest reserves, communal forests, etc.)	Best practices at the local level are not used to inform land policies	
Information not adapted to all social groups			
Inability to create and maintain a peaceful environment			

In Angola, the land policies were not based on land challenges in towns. The greatest inadequacy is based on a criticism and lack of consideration of customary practices and role of leaders (*sobas*) in conflict resolution. Very few provisions of the law of 1992 have been implemented. Therefore, it can be concluded that the legal framework accompanying it was not operational (Clover, 2007).²⁷

²⁷ Land reform in Angola: Establishing the ground rules. REFERENCE?

6.4 Assessment of land policies using social criteria

Despite the impressive effort by Burundi, peasants complain that land allocation does not consider the groups in greatest need. It is claimed that in most cases, peasants who lose their customary rights on plots granted to wealthy urban elites are forced to accept the humiliating position of farm hand on plots they previously owned. Land policies are incapable of protecting the rights of migrants in northern Cameroon who are intimidated by those who claim to be natives. The new arrivals are more enterprising in agriculture.

The main players in pastoralism complain that mobility which is their stock in trade is hampered by a land system premised on private ownership. Given the gap created by the absence of the state in the joint creation of pastoral land plans, other players invest in these areas, but their actions are neither coordinated nor institutionalized.

In all the towns in Central Africa, land policies have been incapable of reversing the deterioration of neighbourhoods where poor and marginalized people live. These hovels can be demolished at any time by city authorities in the name of urban renovation. Likewise, in the peri-urban zones, neo-customary developers have the monopoly in offering building plots. This proves that in spite of its will to control the sector, the government does have the necessary means to translate the provisions into reality.

In Central Africa, land policies are far from resolving the problem of marginalization of some groups, especially women. A study by UN- l'ONU-HABITAT (2007 PAGE NUMBER?)²⁸ accurately depicts the reality in Central Africa: "Data disaggregated according to gender show that until recently women were excluded from direct benefits of land reforms due to discriminatory regulations relating to land distribution, issuance of titles and inheritance."

Other examples indicate that almost all the countries are far from considering the interests of native people in land policies.

6.4.1 Some economic aspects of land policy assessment

In some countries, efforts have been made to reduce the cost of the process of issuing land titles (Cameroon, Chad and Gabon). However, these efforts were ineffective since the means for banks to grant land loans were not created to enable poor people own land. Land policies in the region have failed to reverse the speculative market tendencies. Everywhere, the prices of plots in towns have gone through the roof without the government putting in place any mechanism for regulation. Likewise, the current policies do not contain any incentives for investors. As a result, the few allocations are the prerogative of novices who do not have good financial partners to help develop the plots properly.

With a few exceptions, the tools for urban planning (SDAU, POS, etc.) are too rigid and are therefore hardly ever applied on the ground. However, in Europe where these policies came from, most of the tools have been simplified considerably. Whether it is about occupied zones or forests, proper surveying must accompany the fiscal programme, and the accruing income should contribute to the development of land policies that are more equitable and alive to their role to support development.

28 Droits des femmes au sol, à la propriété et au logement : Guide global pour les politiques publiques (2007).

6.4.2 Assessment of land policies from an institutional perspective

Marginalization of customary players in the formulation and implementation of land policies is one of the most important points. In some countries (Cameroon, Chad and Gabon) these players are involved only in establishing value addition or in amicable settlement of conflicts. The diversity of players engaged in this sector should have incited the government to create a coordination office, but this did not happen. Likewise, with excessive centralization, the decentralization process in some countries may help. Unfortunately, the devolved powers do not include land management. Excessive centralization also raises the problem of keeping and maintaining land data. The lack of land governance is also undeniable. In Cameroon, land titles were recently cancelled and land services agents sanctioned. This adequately proves that this sector needs to be reorganized so that all users can benefit from the same treatment under the same conditions.

6.4.3 Legal framework and assessment of land policies

The most relevant aspects of assessment include the proliferation of land conflicts and the inadequacy of current mechanisms for settling land disputes. The legal procedures in this domain are long and endless. Due to these delays some people tend to take the law into their hands. Confrontations between villages, fights between pastoralists and farmers and conflicts between agro-industries and local communities are just samples of the problems caused by the inadequacy of the current conflict resolution tools in the sub-region. Many players, like pastoralists, do not know what to claim from the law. In some countries such as Cameroon and Gabon the government has realized the need to launch awareness-creation and communication on land issues, but the methods are not adapted to local communities. Therefore, the number of users who are aware of these procedures and their rights remains negligible. Shouldn't they experiment with measures other than penal to instil more justice in this sector?

All these points imply the persistence of major challenges that underscore the huge coexisting stakes in the land sector in Central Africa.

7 – Key Land Policy Challenges in Central Africa

7.1 Governance and peace

A key land related challenge is about governance. According to UN-Habitat (2004)²⁹ good governance in this context must entail several key principles including sustainability, subsidiarity, equity, effectiveness, transparency, citizenship and protection. From this stand point, the quality of urban governance depends to a large extent on eradication of urban marginalization and creation of towns with a human face. This stake determines many others, but this report deals with only one: the marginalization of women land rights and their low participation in urban land governance (UN-Habitat, 2007). The same applies to native people who are not only ignored in matters of land registration, but are also forgotten in compensation for expropriated lands. In sum, governance is connected to equity, social justice and national integration. As a result, the last dimension of governance is the preservation of social peace without which sustainable development that is the target of land management cannot be achieved.

7.2 Sustainable management of natural resources

Through a better definition of access to and control of rights, and a land allocation process that is sensitive to the needs of the people, the foundation for a sustainable management of resources can be laid. This is particularly important for Central Africa where in the last few years, forest and woody resources have been subjected to poorly planned use. The various reforms from the forest sector (Cameroon, Congo, DRC and Gabon) whose effectiveness is yet to be determined confirm this hypothesis. The same analysis applies to pastoral areas where to date the link between modern law and the extensive pastoral systems has not been understood. Pastoralism seems to go beyond meat production to include a true lifestyle, a cultural heritage whose preservation can be accomplished by safeguarding pastoralism and its implications on land.

7.3 The challenge of an inclusive urban co-production

To date, due to problems of managing micro-identity inclinations, towns are considered as belonging first and foremost to the natives. The government solely exercises the role of coordination and implementation of land policies. When the rich class is added to these two types of players, the town has several levels of integration in Central Africa. The government cannot on its own be available to the applicants for protected and developed plots. Landed property once again is at the base of such an upheaval of urban means of production. This is a fundamental condition for eradicating urban exclusion.

In sum, in terms of science, one of the main challenges is to verify the hypothesis that claims that there is a causal link between protection of land rights and agropastoral investment, and the clarification of land tenancy and sustainable management of natural resources. How then can access to land be guaranteed in Central Africa?

²⁹ Urban land for all. REFERENCE?

7.4 Main challenges ahead

7.4.1 Challenge of joint and participatory development of land policies

Several challenges lie ahead. The critical ones relate to land policy development. Although there have been efforts to involve other players, the development of land policy has remained the prerogative of the state which invites the advice of international organizations on consultative basis. Local communities, indigenous people and civil society are hardly ever consulted. Consequently, the challenge of joint and participatory development of an inclusive land policy is a matter of urgency. The monopoly of the state has shown its limitations. In all the countries studied other sectors such as sanitation and health have recognised the need for players other than government. However, this has not been the case for land, a sensitive sector touching on sovereignty. We are not even making a case for customary modes of land management. These were adapted to specific contexts and although they are flexible they can hardly handle the expansion of towns, provide food and deal with new users of resources (forest, agro-industries, etc.).

Since land policies aim at regulating various contradictory and incompatible forms of land use and modes of access and transmission of land, the challenge of joint development of land policies should be dealt with immediately. It is not surprising that the political dimension may be invoked to slow down the involvement of all the players in the development of these policies.

7.4.2 The challenge of using the decentralization process as a channel for land reform

Several Central African countries have embarked on the decentralization process, but land management does not appear among the competences transferred to local governments. Some countries such as Cameroon show a type of reform that has several advantages; they not only relate to some level of de-concentration but are also more about issuance of land titles than land management *per se*. In fact, other relevant aspects (concessions, declaration of public use, compensation, conflict management, etc.) remain centralised in the hands of the government. Excessive centralization of the state therefore must be reversed by embracing decentralization.

7.4.3 The challenge of an implementation process of land policies oriented toward sustainable agropastoral production systems

Central Africa cannot escape the issue of food security. Subsistence farming is no doubt important, but it can hardly meet the needs of a town with a rapidly growing population. The average size of the farms, the mode of access to property and especially the insecurity of rights do not encourage investors. It is well known that even within the confines of family farming, land tenure insecurity (especially for women) cannot allow technical innovations that may increase production. In some cases, arable lands are very few since land tenancy is not well adapted. Like in economics, it is like an artificial shortage due not only to biased distribution of land but also due to the fact that at times more than half of the land in large farms is not in use (Tchawa, 1991). The artificial shortage of arable land forces the peasant to use marginal and sensitive lands and to adapt their techniques by increasing the quantity of labour invested per hectare (Boserup, 1970). As a result, marshlands are slowly being used in Burundi or swamps in the highlands of western Cameroon that are important water regulators and habitats for biodiversity.

The challenge also affects the protection of corridors and participatory development of a pastoral land code especially in Angola Cameroon, CAR and Chad. Extensive pastoralism does not sit well with the current system which favours private property. Governments that are not ready to deal with the challenge confine themselves to resolving agropastoral conflicts that have been intense in southern Chad and north-west Cameroon.

7.4.4 The challenge of putting in place land management tools that can effectively respond to unforeseen social and natural phenomena

Droughts and their impact have forced people in the northern part of Central Africa (Cameroon, CAR and Chad) to move to areas with hospitable climate. The ensuing problems in the host zones can only find lasting and proper solutions through use of appropriate land control tools. However, in the face of these challenges, attempts to find solutions have been mainly informal, outside of government and therefore far from being institutionalized (Seignobos and Gonné, 2006).³⁰ Given the intense variability of the climate, more migrations should be expected. In the same order is the issue of appropriate tools for land management in armed conflict zones. Angola, Burundi, Chad and DRC must deal with this challenge. Finally, there is the fundamental issue of sharing experiences in the region. What mechanism for experience sharing should be set up so that success stories from one country can benefit another in order to save on time and financial resources?

7.4.5 Challenge of regulation of biofuels in the sub-region

Central Africa cannot avoid the insidious and no doubt irreversible entry of biofuels in developing countries. A World Bank expert has shown that the rocketing of prices of food commodities is largely due to biofuels. In fact, given the increase in oil prices, the search for alternative sources of energy is a major economic stake. It is feared that huge expanses of land may be earmarked for oil-producing plants. Whereas it is legitimate to diversify income-generating activities, it is worrying that the lack of regulation instruments and land planning tools may cause industrial companies to use good land to grow such plants to the detriment of small farmers who are the nerve centre of agricultural production in Central Africa. This is an important challenge for which appropriate responses must be found immediately. In view of the vast spaces required for biofuel plants and favourable climatic conditions, countries such as Cameroon, CAR and DRC are the main targets for potential investors.

³⁰ Land issues in Northern Cameroon, In *Grain de sel* n° 36, Inter-réseaux. REFERENCES?

8. Way Forward: Toward new land policies

From the study of the evolutions and orientations of land policies in Central Africa, it is evident that countries in the region first of all developed land laws before defining their land policies. However, these laws deal with the issue of procedures rather than vision.

To regulate the serious land issues in the region in a sustainable and effective manner, strategic thinking should precede any drafting of implementation tools. In future, to accomplish this task, the thinking should be informed by the postulate that land is an important factor in social, political and economic development of Africa. But the current land systems in Central Africa have been unable to manage land and address the land problems in the region. Some land laws (for example in Burundi Chad and DRC) have not been revised in line with the current social and politico-economic realities of the countries. As a result, the practices are at variance with these laws which were copied from French law. The laws are not concerned with their own implementation instruments (land administration, financial resources, competent human resources, etc.).

If land is an important factor in poverty reduction, sustainable development and peace in Central Africa, land policies that will be developed and implemented must be informed by well considered strategies and coordinated actions. Above all, the policies should advocate equity, protection of land rights and effective management/prevention of land disputes. In the development phase of the land policies, two approaches are necessary: inclusion of other national and sectoral dimensions and a participatory process involving many players.

The land policy should be an end in itself. That is why it must be in line with other sectoral policies such as national planning, environmental policy, poverty reduction strategy, agricultural policy, sustainable development policy, good governance and decentralization policy, etc. To guarantee the cohesion between the policies, an inter-ministerial dialogue is important as an organ for dialogue and coordination of the development of land policies. The harmonization of sectoral policies with land policy could address the issue of competences between the various ministries fighting over land management.

The development and implementation of land policy should not be the preserve of government. The process should involve a wide array of players representing different vocations and interests. The dialogue should not be left to high levels of government only, rather, there should be bigger space for national dialogue on land issues, from the grassroots, so that the voice of those affected by land issues can be heard. From the dialogue between various players there should be a shared vision of objectives and principles defined with clarity and arranged logically and coherently. The following axes could guide the land policies in Central Africa:

1. Recognition and protection of local/customary land rights. The legal dualism that marks land policies in the investigated countries is also a source of land tenure insecurity. Whereas most of the land is within the ambit of customary law, the current system grants priority to rights under written law.
2. Effective decentralization of land management and good land governance. Several governments are in the process of decentralization, but land issues are not included in the devolution. In fact, in many governments decentralization does not transfer land powers to local authorities. Although the overlap between modern law and customary law is tolerated, it is not considered in development strategies. Land issues are more political, economic and social than technical. They are so complex that they should not be handled by administrative decentralization. Here, it is important to think about the devolution of power from the central government to the local authorities. It is also

important to consider the legal status of the local institutions. Probably, it is more appropriate to talk about decentralized land administration system rather than just land decentralization. Lavigne Delville (2002:19) finds that “on matters related to land like on other matters, decentralization can be opportunity as well as a risk”. It is important to understand the issue since effective decentralization is also about human and material resources, and governments do not yet have them. Taking the implementation of Land Law of 1998 in Uganda as an example, decentralization required the deployment of 32,253 new civil servants and the creation of 8,969 new offices (Nsamba-Gayiya, 1999:7). To finance such a massive undertaking, the government has to turn to donors; however, it is not surprising that many years after the enactment of these laws, not much has been achieved in terms of implementation. Decentralization has a high cost that cannot be under-estimated. On financing decentralization Keith and McCluskey (2004:13) wrote: “Decentralization will no doubt be more effective if the local government is capable of locally producing a relatively big portion of its own fiscal income. If the transfer of responsibilities from the central government is not matched with the ability to finance the exercise of the responsibilities, the decentralization process will in the main be fictitious.”

3. Protection of access to land for vulnerable groups. Most of the land laws in Central Africa are not concerned with vulnerable groups such as women, children, people affected or infected by HIV/AIDS, war victims, indigenous people, etc. And yet everyone's contribution is important to achieve the objective of sustainable development. A real and fair policy must not be biased. Concerning women, Sohinto (2001:3) finds that “women and land are two necessary components of sustainable development in our societies ». The issue of gender mainstreaming in land policies is not as easy as one may think. In fact, providing women with access to land is not only a question of equity. In addition, it is neither an economic issue only nor human rights issue. It is a question that should be integrated in the social, political and economic transformation of African countries. It is also a problem whose answers are not in any law. The solution requires careful preparation, dispassionate and free of ideas fabricated elsewhere other than within the socio-cultural context in Central Africa. Candid dialogue between “tradition” and “modernity” should be undertaken in order to adopt an effective approach.

In this regard, to implement its land policy Madagascar created a land observatory with two functions: regular monitoring of the orientations and activities of the National Land Programme and observation of land systems and the impact of the actions of the National Land Programme. To achieve these two functions, the land observatory is made up of a Steering and Monitoring Committee whose mission is to verify the coherence of activities of the National Land Programme with the guidelines from the National Policy letter and an Information and Monitoring Unit in charge of evaluation of the implementation of follow-up surveys and monitoring of the National Land Programme in order to establish the impact of the programme and the performance of the executive unit.

1. Adjustment of the law to ecological, economic, social and cultural realities in order to make it effective. Most of the laws on land are replicas of laws in Europe. They were drafted in ignorance of contexts where they would be implemented. Ultimately, the intended effect is missed considering that the human and financial resources for implementation had not been foreseen. Apart from lack of resources, the people do not subscribe to the spirit of these laws which contain expensive and complicated procedures. It is therefore important to draft legislation that involves all stakeholders. Such contributions should be harvested in a participatory process. Laws that have been drafted by bureaucrats and consultants who do not value knowledge from communities/local authorities should be avoided.
2. Development of indicators for monitoring and evaluation for the implementation of land policies.

In more than one country in Central Africa, the governments have initiated for years the development of land laws . However, it is only now that governments have realized that the outcome is not what had been expected. Lack of monitoring and evaluation mechanisms means that failure is noticed too late. In the conceptualization of a new land policy monitoring and evaluation should be emphasized.

3. Creation of a framework for experience sharing at regional level. The regional economic commissions could play a key role in the organization of experiences sharing. The framework should not be a workshop for reporting. Of course, that aspect is important but what is more important is to allow land administration experts to draw their knowledge from elsewhere, to look beyond their plates and learn from others.
4. Modernization of land services, development of national expertise and strengthening of capacities of various categories of players on land issues. Land management today must include technological innovations. The acquisition of these tools and their long term use is a major challenge. Land policy must integrate this component, especially when developing implementation tools. It would be naive to believe that it would be enough to draft a land policy and an implementation plan without addressing the issue of expertise. It would also be risky to think that laws could be enacted and expertise developed later.
5. Use and sustainable management of natural resources. Binot and Karsenty (2007) argue that the land issue, natural resources and environment are three inseparable dimensions of development in the contemporary world. That is all the more true in Central Africa where long-term land policies should be developed. These must halt the abusive use of natural resources that may jeopardize the living standards of future generations. Forests, animals and water sources in Central Africa are critical for the region in particular and the world in general. There is need to reflect on environmental issues arising from senseless deforestation of the Congo Basin (climate change issues).
6. Environment-sensitive management of the movement of refugees and protection of their land rights. In times of conflicts and civil wars, land rights of displaced people or refugees can be a source of serious repercussions on the environment and natural resources. They could engender new conflicts. The response to the issue of refugee movement must factor in environmental protection, protection of land rights (in their own country) of the refugees and prevention of future strife. It is a matter of adopting a regional approach during the development of a disaster management plan.
7. Mobilization of financial resources. This is the backbone of the entire process. Excellent laws can be drafted, but if financial resources to implement them are lacking the laws do not benefit the people. Resource mobilization is a serious challenge to governments. Implementation of land policies is a costly affair. Government must assess accurately the cost of implementation and sources of funds. Financial resources mobilization is a matter of will and priority. If the issue of land policies is pushed to the back-burner, the drafted land policy document will be useless. However, if it is accorded priority, failure will not be blamed on lack of funds.
8. Training is critical in the implementation of any policy. In fact, even if a policy is well articulated, at times its execution fails due to lack of qualified and well trained personnel. That is why the capacities required for the implementation of land policies must be strengthened. The proposed training could be linked with training of local players, land protection, relevant professional and technical training and university training.

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Appendix I: Terms of reference



REGIONAL ASSESSMENTS ON LAND POLICY FORMULATION AND IMPLEMENTATION IN AFRICA

TERMS OF REFERENCE

Background

In view of the importance of land to Africa's social, political and economic development, sustainable resource management, as well as the achievement of peace and security in Africa, the African Union Commission (AUC), the UN Economic Commission for Africa (ECA) and the African Development Bank (AfDB), under the overall leadership of the AUC, have pledged to work on a joint initiative in 2006-2008, with a view to developing a framework and guidelines for land policy and land reforms in Africa. The framework and guidelines are vital tools aimed at complementing national and regional processes for land policy formulation and implementation, with a view to strengthening land rights, enhancing productivity and securing livelihoods. The process of developing the framework and guidelines will be done in close collaboration with Regional Economic Communities (RECs), African Member States and other stakeholders in order to ascertain that the process is African led and the end product African-owned. It is envisaged that the continental framework, with clear guidelines and modalities for its implementation will be endorsed by African Heads of States and Government (AHSG) through AUC policy organs, culminating in the (AHSG) Summit. The framework and guidelines will be useful in supporting regional and national land formulation and implementation processes through affording opportunities for peer learning as well as providing guidance on benchmarks for monitoring land policy reform and implementation processes and outcomes on the continent.

The roadmap set forth to develop and adopt the framework and guidelines includes the following critical steps:

a) A continental Consultative workshop

The consultative workshop, which took place 27-29 March 2006 at the United Nations Conference Centre (UNCC), Addis Ababa, was the first step in the process of developing a land policy framework and guidelines. The discussions were informed by an issues/discussion paper, and brought together representatives from African governments, Regional Economic Communities, Civil Society including farmers' organizations, African private sector, Centres of Excellence and Development Partners. The consultative workshop was successful in building consensus around the following issues:

- Elements and thematic issues that would characterize the framework and guidelines of land policy and land reform in Africa;
- Features of a vision and guiding principles for a framework of land policy in Africa;
- Actions and sequential activities needed to develop a land policy framework and guidelines; and

- Roles of stakeholders and partners, and resource mobilization.

The outputs of the workshop were: i) a background document summarizing the main land issues in Africa that should be used as the basis for developing the guidelines and framework; and ii) a skeleton framework of land policy and land reform in Africa.

b) Regional consultations

Using the background document and the skeleton framework resulting from the consultative workshop, as well as regional assessments as the basis for discussion, the consultations will ensure that regional specificities, initiatives and lessons are used to enrich the framework. In order to help define medium and long-term processes, the regional consultations will also help to identify challenges, knowledge, institutional and resource gaps as well as on-going initiatives. This will assist in mapping out a strategy for capacity building and lesson-sharing activities vital to the implementation of the framework.

The key outcome of the regional initiatives is an enriched draft of the continental framework and guidelines of the land policy and land reform framework. In addition, a regional background document will outline the key elements and processes, needed in the medium and long-term to facilitate the implementation of the framework.

c) African Experts meeting; and d) Meeting of African Ministers Responsible for Land

Having enhanced the land policy and land reform framework with regional consultations, the draft framework will be subjected to an extensive review and discussions by key experts from land related line ministries of all AU member States. A key outcome of the experts meeting will be a refined draft of the framework and guidelines to be sent to the ministerial meeting. In addition, an Experts Report on the land policy framework and guidelines including key recommendations on its implementation will be produced.

Following the Experts meeting, Ministers will review and adopt the Expert's Report and Recommendation on Land Policy Framework and Guidelines.

e) The Summit of Heads of State and Government

The Ministers' Report and Recommendations on Land Policy Framework and Guidelines will be subjected to the policy organs of the AU Summit for consideration and adoption. These include the Permanent Representative Council (PRC) and the Executive Council (EC) of the Assembly. The Executive Council will prepare a draft Declaration for consideration, review and adoption by the Assembly of African Heads of State and Government. The Declaration will contain resolutions and decisions on its implementation and follow-up.

Regional Assessments—Rationale, Objective and Expected Output

The regional assessments aim to raise land policy issues that highlight regional specificities, existing initiatives and lessons that will enrich the framework and guidelines. The assessments will also help to identify challenges, knowledge, institutional and resource gaps as well as on-going initiatives. This will assist in mapping out a strategy for capacity building and lesson-sharing activities vital to the implementation of the framework in the medium to long-term. Using the Background Document and the skeleton framework resulting from the consultative workshop, as well as regional assessments as the basis for discussion, the consultations will ensure that regional specificities, initiatives and lessons are used to enrich the framework. The AU-ECA-ADB Joint Secretariat will work closely with Regional Economic Communities (RECs), African member states and other stakeholders in conducting the regional assessments and the consultation workshops.

The key outcome of the regional initiatives is an enriched draft of the continental framework and guidelines of the land policy and land reform framework. In addition, a regional background document will outline the key

elements and processes that are needed in the medium and long-term to facilitate the implementation of the framework and hence support sub-regional and national processes aimed at implementation of land reforms to strengthen land rights, enhance productivity and secure livelihoods.

Tasks involved in the Regional Assessments

The specific tasks involved in the regional assessments include to:

1. Identify priority land issues and challenges in the sub-region that constrain social and economic development, sustainable natural resource management, and the achievement of peace and security.
2. Document and give a historical perspective to key policies and legislation relating to land in the sub-region, referring to countries as is necessary.
3. Document any complementing policies, legislation and laws that might facilitate/impede the implementation of land policies
4. Document relevant processes used in policy formulation and implementation (e.g. commission of enquiry, identify key stakeholders involved, etc)
5. Identify key authorities involved in administering land rights, dispute resolution etc.
6. Document any institutional reforms related to land administration
7. Document other existing initiatives relating to land policy reform, including land policy facilities, highlighting key stakeholders and partners
8. Analyse the extent to which land issues and challenges (in 1 above) are addressed by the policies, legislation, laws, and processes identified above. Make special reference to lessons and areas for improvement.
9. Analyse the extent to which institutional reforms have facilitated the formulation and implementation of land policies, highlighting innovative reforms, e.g. use of traditional institutions and processes. Make reference to potential lessons and best practices
10. Based on assessment above, document challenges, gaps and implementation bottlenecks of land policy and land reform, including capacity building needs and resources.
11. Based on the regional assessments, make suggestions for revision of skeleton framework and guidelines with a view to ensuring that regional specificities are included.
12. Prepare a report of the sub-regional assessments including all the elements above
13. Work closely with the Joint Secretariat and the RECs in preparing documents and planning for regional consultations and participate in the consultation workshop.



This Central Africa regional assessment study has been prepared by 3 experienced land experts from the region. The report which was based on a desktop review has benefited inputs from the AUC- ECA -AfDB Consortium, as well as from a wide range of stakeholders during a regional multi-stakeholders consultation. The multi-stakeholders consultation led by the Economic Community of Central African States (ECCAS) involved representatives of Governments, Regional Institutions, Civil Society Organizations, Traditional Chiefs, Private Sector, Centres of excellence and Development Partners.

The regional assessment study discusses key land issues and challenges in Central Africa, and provides useful information on the ongoing land policy processes. It also draws lessons from successes as well as from failures in land policy development, implementation, monitoring and evaluation.

The study helped to enrich the Framework and Guidelines on land policy in Africa with regional specificities from Central Africa.

The AUC- ECA- AfDB Land Policy Initiative Consortium hopes that this publication will be useful to all stakeholders, especially to Governments, Civil Society Organisations, and Development Partners, in their efforts to promote experience sharing, document best practices in the land sector and build capacity for effective land policy development, implementation, monitoring and evaluation.

