



# LAND REFORM PROCESSES IN WEST AFRICA: A REVIEW

Sahel and West Africa Club Secretariat

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## ACRONYMS

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AU	African Union
ADR	Alternative Dispute Resolution
AFD	<i>Agence française de Développement</i> / French Development Agency
AfDB	African Development Bank
CAADP	Comprehensive Africa Agriculture Development Programme
CIDA	Canadian International Development Agency
CILSS	<i>Comité Permanent Inte-Etats de Lutte contre la Sécheresse au Sahel</i> / Permanent Inter-State Committee for Drought Control in the Sahel
ECOWAP	Economic Community of West African States' Agricultural Policy
ECOWAS	Economic Community of West African States
EU	European Union
DAC	Development Assistance Committee
DFID	Department for International Development (United Kingdom)
DDR	Disarmament, Demobilisation and Reintegration
FAO	Food and Agriculture Organization
FBI	Franco British Initiative
FAPA	<i>Fermes agro-pastorales</i> / Agro-pastoral farms (Guinea)
GTZ	<i>Gesellschaft für Technische Zusammenarbeit</i> / (Germany)
IDEA	Institute for Democracy and Electoral Assistance
IFAD	International Fund for Agricultural Development
IIED	International Institute for Environment and Development
ILC	International Land Coalition
KFW	<i>Kreditanstalt für Wiederaufbau</i> (Germany)
LAP	Land Administration Programme (Ghana)
LPDA	<i>Lettre de Politique de développement agricole</i> / Agricultural Development Policy Document (Guinea)
LTS	Land Tenure Service (FAO)
LUCOP	<i>Programme Lutte contre la pauvreté à Tillabéri et Tahou Nord</i> / Poverty Reduction Programme in Tillabéri and Tahoua Nord (Niger)
MDGs	Millennium Development Goals
MFA	Ministry of Foreign Affairs
NDF	Nordic Development Fund (Finland)
NEPAD	New Partnership for Africa's Development
NRM	Natural Resource Management
OECD	Organisation for Economic Co-operation and Development
OMVG	Organisation pour la mise en valeur du fleuve Gambie
OMVS	Organisation pour la mise en valeur du fleuve Sénégal
PAIGC	<i>Partido Africano da Independência da Guiné e Cabo Verde</i> / African Party for the Independence of Guinea and Cape Verde
PASP	<i>Projet de Protection intégrée des ressources agro-sylvo-pastorales dans la région de Tillabéri-Nord</i> / Integrated Protection of Agro-Sylvo-Pastoral Resources in the North Tillabery Region Project (Niger)
PAU	Agricultural Policy of the Union ( <i>Politique Agricole de l'Union</i> )
PDRT	<i>Projet de Développement Rural de Tahoua</i> / Tahoua's Rural Development Project (Niger)
PRR	Policy Research Report (World Bank)
RAF	<i>Réorganisation agraire et foncière</i> / Agrarian and Land Reform (Burkina Faso)
SADC	Southern African Development Community
SWAC	Sahel and West Africa Club
UNDP	United Nations Development Programme
UNECA	United Nations Economic Commission for Africa
WAEMU	West African Economic and Monetary Union
WBI	World Bank Institute

## FOREWORD

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The Sahel and West Africa Club's (SWAC) activities cover seventeen countries in West Africa, i.e. the fifteen ECOWAS member countries<sup>1</sup> plus Cameroon, Chad and Mauritania. This area is comprised of 7,800,000 km<sup>2</sup> with a total population of about 300 million. The SWAC's work focuses on four main areas (i.e. Medium- and Long-Term Development Perspectives; Rural Transformation and Sustainable Development; Local Development and the Process of Regional Integration; Governance, Conflict Dynamics, Peace and Security) to achieve the following objectives:

- Help identify strategic issues concerning medium- and long-term development in West Africa;
- Contribute to mobilising and strengthening African capacities within a network approach;
- Support initiatives and efforts by Africans fostering medium- and long-term development in the region;
- Facilitate exchanges between regional actors and OECD Member countries;
- Promote constructive debates that lead to innovative decisions within and outside West Africa aimed at building a better future for the region.

This document is one of the outputs of the Initiative on "Land, Agricultural Change and Conflict in West Africa: Regional Lessons from Sierra Leone, Liberia and Côte d'Ivoire"<sup>2</sup>, which seeks to:

- Deepen the understanding of the relationships between the dynamics of agricultural change, agrarian relations, land and conflict issues on a regional perspective;
- Develop proposals to feed into debate on regional agricultural, natural resource management and land tenure policies in partnership with key regional actors and organisations.

This document contains a **review** of land reform processes in West African countries. It presents the recent initiatives carried out by regional organisations in support of land reform in the context of regional policies on agriculture, natural resource management, conflict prevention and security. It provides background information on reform processes occurring on the ground as of early-2006. It briefly describes how external partners have provided support to (African) land reform processes. Based on field observations and consultations, it outlines the key principles, contents and stakes of current reforms with a view to laying the foundation for further debate on land reform in the region.

This document accompanies the **Historical Overview** of the relationship between land and conflict issues in Sierra Leone, Liberia and Côte d'Ivoire. These outputs prepare the groundwork for more policy-oriented work on land issues in West Africa in 2006-2007.

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<sup>1</sup> ECOWAS member countries: Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, (The) Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Sierra Leone, Senegal and Togo.

<sup>2</sup> See <http://www.ossrea.net/projects/landnet.htm>.

## INTRODUCTION

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This document contributes to the SWAC's overall analysis of land issues as crucial factors that affect the development and security prospects of the region. It aims to feed into regional debate on West Africa's rural development promoted, *inter alia*, by the CILSS, the WAEMU and ECOWAS. This debate has received renewed attention on the global development agenda – e.g. the 2005 World Summit Outcome identifies “rural and agricultural development” among a core list of priority areas for action to achieve the Millennium Development Goals.<sup>3</sup> Other examples are the NEPAD's Comprehensive Africa Agriculture Development Programme (CAADP) and the recently launched AfDB/AU/UNECA process (see below).

Over the last five decades, West African countries have experienced steady demographic growth and dramatic political, economic, cultural and social changes. This complex change process accelerated during the 1990s and had significant impact on the way land resources are socially perceived and used. Land regimes<sup>4</sup> have proven to be only somewhat evolving. They are strongly influenced by the colonial legacy and combine customary and statutory systems in order to govern ownership, access, control and use of natural resources; address (local) conflict; and support agricultural development.

Land is a major economic, political, social and cultural asset in Africa. Controlling land resources, nationally and/or locally is also a means to accumulate political, economic and social power. Thus, land reform is a highly politicised process that can be seen as a threat to the interests of certain actors. However, land reform can also be seen as an opportunity to change the social and political relations particularly with reference to inequality based on gender, group membership, age, etc. The need for reform is widely acknowledged to address problems related to competing land rights and uses and the exploitation of economic opportunities associated with increasing land value or more productive land uses in rural and urban settings. Land reform processes have been initiated in several West African countries over the last twenty years, with varying degrees of success.

While the land reform agenda gains momentum domestically, an interest in considering land policy issues with a regional perspective also seems to emerge. Phenomena that go beyond national borders could be best addressed through collective or concerted action, e.g. the management of shared natural resources including watershed resources; transhumance pastoralism; desertification; migration; displaced population movements; and the spread of violent conflict. All have significant land dimensions which is one reason why recent legal instruments for regional cooperation and integration<sup>5</sup> make reference to land issues. These instruments foreshadow the importance of identifying regionally common principles for land tenure to address cross-border and inter-State land issues.

With a view to examining the issues above, this document is organised as follows:

- The first section describes the major legislation, policies and achievements in recent decades of ECOWAS, the WAEMU, the CILSS and AfDB on land, natural resource management, conflict and reconstruction issues.
- The second section presents an insight on national land reform processes in West Africa to enable a comparative analysis and begin identifying regional synergies.
- The third section introduces approaches to land reform as supported by development partners in Africa.
- The final section highlights key issues and a series of questions for regional debate.

This document blends literature analysis on land reform in Africa with field observations and consultations of various West African actors and development partners involved in the reform process.

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<sup>3</sup> See: <http://daccessdds.un.org/doc/UNDOC/LTD/N05/511/30/PDF/N0551130.pdf?OpenElement>, paragraph 46.

<sup>4</sup> Land regimes in West Africa encompass full sets of norms, rules, decision-making procedures and institutions that regulate land management, administration and use in any specific context.

<sup>5</sup> The ECOWAS' Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security; the ECOWAS and WAEMU's agricultural policies; the ECOWAS' protocol on settlement rights, etc.

## I. LAND, CONFLICT AND RECONSTRUCTION ISSUES: AN AFRICAN PERSPECTIVE

The regional intergovernmental organisations (the CILSS, ECOWAS and the WAEMU) address land, natural resource management (NRM), conflict and emerging from conflict issues in West Africa. The manner in which these organisations take such issues into account varies greatly depending upon their mandate. However, they all agree on the strategic importance of natural resources, peace and security for regional cooperation and sustainable development. Regional organisations seem to be considering pushing such issues onto the regional political agenda.

The mission, membership and goals of West African regional organisations are distinct and sometimes complementary and overlapping. To increase regional cooperation and foster policy harmonisation, these organisations have coordinated their activities more closely in recent years: the most specialised organisation – or the one which has made the most progress as regards integration in a particular sector – normally takes the lead to develop strategies and programmes behind which the others may eventually align. For instance, the CILSS is the leader in the monitoring and implementation of national and regional action plans of the Rio Environmental Conventions whereas ECOWAS has taken the lead for the creation of a regional security regime, which encompasses the WAEMU defence agreements. Furthermore, ECOWAS' Agricultural Policy (ECOWAP<sup>6</sup>), adopted by West African Heads of State in January 2005, builds upon the WAEMU's experience in the development of the Agricultural Policy of the Union (the *Politique agricole de l'Union* or PAU). The ECOWAP was set up by a task force whose technical secretariat was coordinated by the CILSS, but it is now implemented under ECOWAS' supervision.

More recently, institutions with a continental mandate such as the African Development Bank (AfDB) and the African Union (AU), have also acknowledged the relevance of land issues in accomplishing their mission. They are involved in a joint initiative to develop an overall land policy framework for Africa which is to be implemented in 2006-2007.

### Regional organisations dealing with natural resource management

The following regional organisations address NRM and the management of regional public goods:

- The [Lake Chad Basin Commission](#) brings together Cameroon, Chad, Central African Republic, Niger and Nigeria. It aims to plan and execute Basin regional/national projects in agriculture, irrigation, road transport, telecommunications, fisheries and livestock; regulate navigation and promote rational use of water. The Commission also promotes mechanisms for settling disputes and improving regional cooperation.
- The [Gambia River Basin Development Organisation](#) includes Senegal, The Gambia, Guinea Bissau. It aims to implement an agreement on the use of the Gambia river's water; promote and coordinate studies/works for the basin's development; implement joint work undertaken.
- The [Mano River Union's](#) (MRU) member countries are Liberia, Guinea and Sierra Leone. The MRU initially sought to promote regional links via transport and communication; promote inter-State trade and customs and tariff harmonisation; promote the development of regional hydropower generation and interconnection as well as irrigation projects. In 2002, its goals were expanded to cover security and the harmonisation of reconstruction and resettlement strategies within the three countries.
- The [Niger River Basin Authority](#) encompasses Benin, Burkina Faso, Chad, Côte d'Ivoire, Guinea, Mali, Niger and Nigeria. It seeks to promote inter-state cooperation for the integrated development of the Basin's natural resources; harmonise national development policies as regards water resources; prevent environmental damage and support conservation.
- The [Senegal River Basin Development Organisation](#) (French acronym: OMVS) regroups Senegal, Mali and Mauritania. It seeks to promote cooperation among its member countries; coordinate technical and economic studies and other activities related to the river development (i.e. navigation, irrigation, hydropower generation, environmental protection, conservation); and regulate river flow for irrigation, flood control, power generation, etc.

See also <http://www.uneca.org/aria/>

<sup>6</sup> ECOWAP -- the Economic Community of West African States' Agricultural Policy.

## ***1.1 The Economic Community of West African States***

Established in 1975, ECOWAS is the largest of the West African regional organisations with fifteen member countries stretching from Cape Verde to Nigeria. It has been mandated by its member countries to encourage regional integration and aims to promote economic integration in “all fields of economic activities particularly industry, transportation, telecommunications, energy, agriculture, natural resources, commerce, monetary and financial matters, social and cultural issues”. ECOWAS member states have nominated the organisation to negotiate the Economic Partnership Agreements with the EU on their behalf. ECOWAS is also the regional organisation responsible for planning and implementing the NEPAD agricultural strategy in West Africa. The Community has achieved substantial progress notably for the free movement of persons and the promotion of peace and security.<sup>7</sup> ECOWAS is widely considered as the African regional economic community that has achieved the greatest degree of institutional integration.

In 1999, ECOWAS established the **Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security** complemented in 2001 by the **Supplementary Protocol on Democracy and Good Governance**. The Supplementary Protocol focuses on the political causes of conflict in the region. It establishes principles of constitutional convergence and establishes a regional framework to address elections and election monitoring; the role of the armed forces, policy and the security forces in democracy; poverty alleviation and promotion of social dialogue; education, culture and religion; the rule of law, human rights and good governance. The Protocol requires that member states adopt ad hoc legislation for the social promotion of women and youth and that the ECOWAS Secretariat monitor the implementation of common policies and programmes for the education, promotion and well-being of women and youth.<sup>8</sup>

The Mechanism is regularly applied by the Authority of Heads of State and the ECOWAS Secretariat to enable them to play their roles as regards peace and security.<sup>9</sup> Two elements of the Mechanism are particularly relevant to land and youth issues. As set out in Article 3, one of the Mechanism’s objectives is to create appropriate frameworks for the rational and equitable management of natural resources shared by neighbouring states which may cause frequent inter-State conflicts.<sup>10</sup> Article 44 dealing with peace-building at the end of hostilities urges ECOWAS to undertake the following activities: establish conditions for the political, social and economic reconstruction of society and governmental institutions; implement disarmament, demobilisation and reintegration programmes including those for child soldiers; resettle and reintegrate refugees and internally displaced persons; and assist vulnerable persons, including children and women. While assessing to what extent these provisions are implemented on the ground, it would be useful to examine the major constraints and bottlenecks in their application and possible ways forward.

At present, ECOWAS does not directly address land and NRM issues. However, it considers such issues in the regional legal framework on pastoralism (A/DEC.5/10/98 and C/REG.3/01/03), which foresees the establishment of transhumance corridors and grazing pastures in cross-border areas.

ECOWAS has adopted a programme for the sustainable management of pastoral resources and the management of transhumance in West Africa. Its action plan recommends monitoring pastoral resources and assessing their environmental and socio-economic impacts at the regional level.

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<sup>7</sup> Concerning the free movement of persons, the related protocol establishes the rights of residence and establishment in all member countries for ECOWAS nationals. However, as of October 2005 only Benin, Burkina Faso, Ghana, Guinea, Mali, Niger, Nigeria, Senegal, Sierra Leone and Togo have created the foreseen national commissions responsible for monitoring the Protocol’s implementation. See References at the end of this document.

<sup>8</sup> In 2005, the Protocol entered into force having been ratified by nine countries: Ghana, Mali, Guinea, Sierra Leone, Burkina Faso, Senegal, Benin, Niger and Togo.

<sup>9</sup> The Mechanism defines a member state in crisis as “both a Member State experiencing an armed conflict as well as a Member State facing serious and persisting problems or situations of extreme tension which, if left unchecked, could lead to serious humanitarian disaster or threaten peace and security in the sub-region or in any Member State affected by the overthrow or attempted overthrow of a democratically elected government”.

<sup>10</sup> In particular, the issue of shared water resources is critical to cooperation and conflict between many neighbouring countries in West Africa e.g. Mauritania, Senegal and Mali; Burkina Faso, and Togo and Ghana.

The notion that pastoralism should be one of the priorities on the regional land agenda is widely shared in those West African countries where pastoralism provides the basis of the economy and rural livelihoods, but also where the risk of land-related conflict is higher due to land scarcity and/or competition between different land user groups (i.e. farmers vs. herders, transformation of peri-urban areas, etc.).<sup>11</sup>

The Task Force in charge of developing the ECOWAP identified land and NRM as a critical set of issues to be addressed by the agricultural regional policy. Insecure land tenure is identified as a factor contributing to low investment and productivity in West African agriculture. Moreover, the lack or poor management of natural resources, particularly common property resources, is seen as a potential cause of violent conflict. Thus, the case is made for cross-border management of common property resources that go beyond national borders. The Task Force acknowledged that land regimes in West Africa are based on a mix of customary and statutory laws, rules, institutions and authorities, which makes it difficult to reform land tenure systems and gather consensus on such reforms. It also observed that the regional debate on land tends to converge with the debate on settlement rights of West African citizens in ECOWAS member states. This emphasises the highly political nature of the land debate not only domestically but also regionally. These observations, however, have not fed directly into the ECOWAP. Nonetheless, they have enabled ECOWAS to support the CILSS in its proposal to develop a Regional Land Tenure Charter (see section on the CILSS below).

#### ECOWAS – Key references

- 1979: [Protocol A/P.1/5/79 Relating to Free Movement of Persons, Residence and Establishment](#)
- 1989: [Supplementary Protocol A/SP.1/6/89 Amending and Complementing the Provisions of Article 7 of the Protocol on Free Movement, Right of Residence and Establishment](#)
- 1998: Decision A/DEC.5/10/98 of 31/10/1998 Related to the Regulation of the Transboundary Transhumance between the States Members of ECOWAS
- 1999: [Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security](#)
- 2001: [Protocol A/SP1/12/01 on Democracy and Good Governance supplementary to the Protocol establishing the Mechanism for Conflict Prevention, Management and Resolution, Peacekeeping and Security](#)
- 2004: [Cadre de Politique Agricole pour l'Afrique de l'Ouest](#), Background Document, July
- 2005: [Décision A/DEC.11/01/05 portant adoption de la Politique agricole de la CEDEAO](#)

Official Websites: <http://www.ecowas.int>; Water Resource Coordination Unit: <http://www.wrcu.ecowas.int/>

Others: <http://www.ecowas.info/>  
<http://www.ecowasnews.com/>  
[http://www.iss.co.za/AF/RegOrg/unity\\_to\\_union/ecowasprof.htm](http://www.iss.co.za/AF/RegOrg/unity_to_union/ecowasprof.htm)  
<http://www.hubrural.org/pays/cedeo.php?lang=fr>

[Economic Partnership Agreements with EU](#)  
[NEPAD Regional Implementation Planning](#)  
[Transhumance pastoralism](#)

<sup>11</sup> This risk may be particularly high in cross-border areas or in relation to water-related projects that bring about change in land use patterns as was the case in Mali during the 1970s and 1980s following the adoption of pastoral irrigation policies.

## **1.2 The West Africa Economic and Monetary Union**

Created in 1994, the WAEMU brings together Sahelian and coastal francophone countries, i.e. Benin, Burkina Faso, Côte d'Ivoire, Mali, Niger, Senegal and Togo. Guinea Bissau joined in 1997 bringing the Union's membership up to eight countries. Given the critical role played by Côte d'Ivoire in the WAEMU's economic and monetary stability, since late 2002 the WAEMU Commission has regularly monitored the economic, monetary and social consequences of the Ivorian situation at the regional level.

The WAEMU has five objectives including the creation of a common market based on the right of settlement and the free movement of persons, goods, services, and capital; and the harmonisation of national legislation. In 2001, the WAEMU adopted the Agriculture Policy of the Union (the PAU), which encompasses agriculture, forestry, livestock and fishery activities. The PAU has two objectives: food security and better living conditions for producers by developing rural economies, increasing their incomes and social status. To achieve these objectives, the WAEMU is responsible for setting up guidelines in different areas including land issues directly related to agricultural activities. Article 4 establishes the PAU's key principles: subsidiarity, proportionality, a regional approach, complementarity, solidarity, progressiveness and partnership. The role of women and youth in agriculture is specifically mentioned in the text (Article 5) as well as the importance of cross-border management of shared resources (e.g. water, halieutic resources and transhumance, Article 8).

In 2004, in collaboration with the World Bank, the WAEMU decided to examine the links between land issues and regional integration processes. It commissioned a study<sup>12</sup> on the role played by secure land systems and functional land markets in the acceleration of an efficient, competitive common market in West Africa. The study focused on the main social and economic transformation trends in the region and their impact on land issues. It also provided basic information on national land policies and legislation. It concluded by setting out a proposal for a WAEMU initiative on land policy with the following priorities:

- The initiative's appropriation by WAEMU's member states;
- The establishment of a West African Land Policy Observatory;
- Capacity building in the field of land policy;
- Assistance to member countries in the promotion of land markets.

As of mid 2006, these recommendations have not yet been approved by the WAEMU's Commission and follow-up remains unclear.

### **WAEMU – Key references**

1994 : [Traité de l'Union économique et monétaire ouest-africaine](#)

2001: [Acte additionnel no. 03/2001 portant adoption de la politique agricole de l'UEMOA](#)

2002: [Les grandes orientations de la politique agricole de l'UEMOA, Vol. 1](#)  
[Les grandes orientations de la politique agricole de l'UEMOA, Vol. 2](#)

2004 : [Acte additionnel no. 03/2004 portant adoption de la politique d'aménagement du territoire communautaire de l'UE MOA](#)

Official Website: <http://www.uemoa.int>

Others: <http://www.izf.net/izf/index.htm>; <http://www.hubrural.org/pays/uemoa.php?lang=fr>

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<sup>12</sup> H. M. G. Ouedraogo 2004a.

### ***1.3 The Permanent Inter-State Committee for Drought Control in the Sahel***

Created in 1973, the CILSS has nine Sahelian member countries: Burkina Faso, Cape Verde, Chad, The Gambia, Guinea Bissau, Mali, Mauritania, Niger and Senegal. It aims “to invest in research for food security and in the struggle against the effects of drought and desertification in order to achieve a new ecological equilibrium”. Since the 1980s (regional meeting in Ségou, Mali in 1989), the CILSS is the regional organisation that has focused the most on land policy analysis and development.

In June 1994, the Club du Sahel and the CILSS jointly organised a conference in Praia, Cape Verde on land issues and decentralisation in the Sahel. High level West African participants recognised that certain national land policy options were detrimental for Sahelian societies insofar as they could encourage intolerance, inflexibility and exclusion. They could also threaten historic forms of seasonal migration and land use related to climatic constraints and changing location of natural resources or fertile soils. The need was highlighted to develop innovative forms of NRM which are equitable, peaceful and decentralised. These issues were underlined in the **Praia Declaration** that identified the following priorities:

- i) Clear definition of the status of different land users and actors such as farmers, herders and fishermen;
- ii) Development of national guidelines for land management based upon equity and social justice;
- iii) Clear and sustainable frameworks to improve access to natural resources by vulnerable groups (particularly women) and regulate relations between land owners and users;
- iv) Spatial management (*aménagement du territoire*) initiatives to protect livelihoods and the environment.

The Praia Declaration provided the foundation for the Praia Process during the 1990s based on four priority areas of action: 1) supporting civil society in NRM; 2) supporting member states in the development of national legislation to be applied locally; 3) mainstreaming gender issues in NRM policies; and 4) building capacity for information, awareness-raising and education on land and NRM issues in the Sahel.

However, the commitments in the Declaration were not generally applied at the political level nor were civil society organisations sufficiently involved in or held accountable for their implementation. Overall results were thereby limited. To provide impetus to implement the Praia commitments, in November 2003, the CILSS organised the “Praia + 9 Forum: Rural Land Tenure and Sustainable Development in the Sahel and West Africa” in Bamako, Mali in collaboration with ECOWAS, the WAEMU and regional and international technical institutions. The Forum aimed to assess progress on the implementation of the Praia Process and the development of guiding principles to ensure secure, equitable access to land resources and sustainable NRM in West African countries.

To prepare the Forum, the CILSS and its partners reviewed the Praia Process in twelve countries (the nine CILSS member countries<sup>13</sup> plus Benin, Ghana and Togo). Building on national reviews of the countries, the organisers developed a regional overview, which identified a number of challenges that will need to be faced in the coming years: links between natural resources (including land) management and administrative decentralisation; promotion and protection of land rights of vulnerable and disfavoured groups; incorporation of the land aspect into broader poverty reduction strategies and programmes; and development of cross-border approaches to NRM. The proposal to establish a process to develop a Regional Land Tenure Charter was also presented for discussion at the Forum.<sup>14</sup>

<sup>13</sup> Burkina Faso, Cape Verde, Chad, The Gambia, Guinea Bissau, Mali, Mauritania, Niger and Senegal.

<sup>14</sup> Discussions revolved around five themes reflecting the regional challenges identified above: ‘Rural land tenure and decentralisation’; ‘rural land tenure and regional integration’; ‘equitable access to land and natural resources’; ‘rural land tenure and options to secure access to land in rural areas’; and ‘rural land tenure and sustainable development’.[‘*foncier rural et décentralisation*’; ‘*foncier rural et intégration régionale*’; ‘*accès équitable aux terres et aux ressources naturelles*’; ‘*foncier rural et options de sécurisation foncière en milieu rural*’; and ‘*foncier rural et agriculture durable*’]. Working documents presented at the Forum are available on the CILSS website.

Some 200 national and local representatives of CILSS member states and other West African countries (i.e. Ghana, Guinea, Nigeria, Sierra Leone and Côte d'Ivoire) attended the Forum. Many participants concluded that several issues discussed had already been raised at the Praia meeting in 1994, but the key problem lay in the lack of political will of governments to implement the Declaration.

At the end of the meeting, participants agreed on the **Praia + 9 Declaration** which recommended the drafting of a "Regional Land Tenure Charter in the Sahel and West Africa". This Charter would enable the linking of the principles of free circulation of persons and goods and the right of establishment in any member state – consecrated in the ECOWAS and WAEMU Charters – with rights to access, use, transfer and manage land and other natural resources at the regional level.

Without binding force, the Charter would establish key principles for equitable and secure access to land resources. It would represent a source of inspiration for national land reforms. It is widely recognised that preparing the Charter would be a long term process. The CILSS would maintain technical leadership in the formulation of such principles whereas the WAEMU Commission and the ECOWAS Secretariat would lead the process of building political consensus around the Charter. To date, States do not appear eager to incorporate this Charter into regional law. However, the CILSS remains intent on taking it forward at an appropriate time.

#### CILSS -- Key references

**2003:** [Foncier rural et développement durable au Sahel et en Afrique de l'Ouest, Déclaration finale](#)

**1994:** Praia Declaration, CILSS

Official Website: <http://www.cilss.bf>

Regional Centre AGRHYMET <http://www.agrhymet.net/>

Institut du Sahel: <http://www.insah.org/index.html>

Others:

<http://www.hubrural.org/pays/cilss.php?lang=fr>

[http://www.oxfam.org.uk/what\\_we\\_do/issues/livelihoods/landrights/downloads/prai9\\_regional\\_summary.pdf](http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/prai9_regional_summary.pdf)

#### ***1.4 The African Development Bank, the African Union and the United Nations Economic Commission for Africa<sup>15</sup>***

Founded in 1964, the African Development Bank is a regional multilateral finance institution. It brings together seventy-seven members divided into regional member countries and non-regional member countries from North and South America, Europe and Asia. AfDB is the most important development aid agency on the African continent. It has African majority ownership and its President is always African. As an African-owned development agency, AfDB priority areas of action reflect the demand emerging on the ground.

The Bank's work is organised into three regions: i) west and central; ii) southern; and iii) northern Africa. Its overall goal is to mobilise resources for the economic and social progress of regional member states. The Bank recognises that Africa's primordial challenge is poverty reduction. Agricultural and rural development is key to reducing poverty and accounts for 30% of the Bank's interventions. Land issues are considered as critical.

The Bank is either directly or indirectly involved in land-related activities. It funds studies on conflict related to resources as well as irrigation projects or resettlement and allocation schemes. It provides assistance to develop community, regional and national land use strategy plans or implement land registration. In order to improve the way land issues are addressed within the Bank's projects, in 2002 the

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<sup>15</sup> Although these organisations have a continental mission, special focus has been placed on West African land issues.

AfDB commissioned a review of land tenure issues in selected West and central African countries.<sup>16</sup> Through this study, the Bank sought to identify guiding principles to improve its interventions that interact with land tenure issues. Furthermore, the Bank developed a framework (2004) in which Bank staff were encouraged to integrate land issues into their work so as to contribute to improving the understanding of land tenure issues.

The study and the framework provide a comprehensive picture of the main social, economic and political factors that characterise land tenure systems across the region. They also contain background information on land issues in the countries covered. These documents build on the Bank's global vision, its land-related sector policies<sup>17</sup> and lessons learned from projects with a land tenure component to recommend necessary measures to: take land tenure issues into account in all of the Bank's operations; and help regional member countries address land issues for poverty reduction and sustainable development.<sup>18</sup>

These guiding principles have been identified by the AfDB:

- i) Economic efficiency must be supportive of social efficiency and equity;
- ii) Policies, legislation and programmes must include the recognition of traditional land rights;
- iii) Decentralisation of institutions governing land resources, including decentralisation of decision-making authorities;
- iv) Building the capacity of regional member countries to enable them to address their priority land issues nationally.

These documents include a detailed checklist for project conception, implementation and monitoring. The study, in particular, identifies a number of potential areas for the Bank's support to regional member countries including: i) capacity building on crucial land issues (e.g. land market problems and registration); ii) land policy development and land legislation design and reform; iii) land policy and land laws implementation; iv) research and networking on land issues, etc.<sup>19</sup>

It is expected that the guiding principles and framework would inform the development of a Bank Policy on Land Tenure in the future. A Land Issues Working Group has been established within the Bank to this effect.

The Bank works with UNECA and the AU to develop an action framework on land. The process will involve regional organisations like ECOWAS and the SADC as well as African governments and civil society organisations. In March 2006, a consultative workshop on land reform was organised in Addis Ababa by AfDB/AU/UNECA with the facilitation of the International Land Coalition (ILC) and the support of the Institute for Democracy and Electoral Assistance (IDEA), the International Fund of Agricultural Development (IFAD) and the Rockefeller Foundation. The workshop enabled the threats, challenges and opportunities facing land reform in Africa to be explored. An action plan was recommended to address such issues. It was stressed that land is essential in addressing poverty, food security and broad-based economic growth in Africa including equity, economic efficiency and sustainable environmental management. The AU<sup>20</sup> and the AfDB<sup>21</sup>, in particular, highlighted the importance of gender issues in relation to land.

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<sup>16</sup> AfDB 2002.

<sup>17</sup> These are: agricultural and rural development; regional cooperation and integration; poverty reduction; private business development; environment sustainability and croplands conservation; NRM; and gender.

<sup>18</sup> It is recognised that land tenure and development goals converge on the following: poverty reduction; economic growth; increasing agricultural productivity; promoting private investment e.g. through private ownership of land; attracting direct foreign investment; ensuring environmental sustainability; achieving social security; promoting gender equity (with regard to access to land); reconciling opposing claims to land; and strengthening institutional development.

<sup>19</sup> The study also provides information and country profiles for all countries concerned by the study. In West Africa, the countries are: Benin, Ghana, Niger and Senegal, Chad and Cameroon.

<sup>20</sup> The AU in a solemn declaration on gender equity adopted by Heads of State in July 2004, advocated for the implementation of legislations to strengthen women's land property and inheritance rights.

<sup>21</sup> AfDB, Gender Plan of Action for 2004-2007 for the African Development Bank Group 2004.

#### AfDB– Key references

- 2000: [Agricultural and Rural Development Sector Bank Group Policy](#)
- 2001: Africa Rural Development Strategy: Vision to Action
- 2002: Guiding Principles for the Bank Group on Land Issues in Central and West Africa
- 2004: Framework Paper: Addressing Land Tenure Issues, Central and West Africa, May  
[Gender Plan of Action for 2004-2007 for the African Development Bank Group, AFDB](#)
- Official Website: <http://www.afdb.org>

#### AU – Key reference

- 2004: [Sirte Declaration](#)
- Official Website: <http://www.africa-union.org>

### ***1.5 The New Partnership for Africa’s Development***

The New Partnerships for Africa’s Development (NEPAD) takes account of land issues through the Comprehensive Africa Agriculture Development Programme (CAADP) launched in November 2002. The CAADP was designed to promote investment in four areas that have been identified as having the potential to make a difference to Africa’s food and agriculture situation. These are:

- i) Expanding the area under sustainable land management and reliable water control systems. Reliance on irregular and unreliable rainfall is a major constraint on crop productivity;
- ii) Improving rural infrastructure and trade-related capacities for improved market access;
- iii) Increasing food supply and reducing hunger; and
- iv) Agricultural research, technological dissemination and adoption.

In July 2003, African governments adopted a declaration on agriculture and food security in Maputo. In this declaration African governments are committed to allocating at least 10% of their national budget to agriculture within five years.<sup>22</sup> A number of countries confirmed achieving this target. A CAADP Support Group was created to provide technical assistance to governments in formulating projects, coordinating multilateral support, and assessing capacity building needs at the national and regional levels. An extraordinary summit of the African Union held on 27 February 2004 adopted the **Sirte Declaration** which outlines measures to effectively harness water resources in support of agricultural development in Africa at the national, regional and continental levels. Within this framework, NEPAD’s action should converge towards the ongoing AU/UNECA/AfDB Initiative in order to address land issues in Africa by maximising all efforts.

#### NEPAD – Key references

- 2002: CAADP: <http://www.nepad.org/2005/files/caadp.php>
- Official Website: <http://www.nepad.org/2005/files/home.php>

<sup>22</sup> This same commitment has been included in the ECOWAP.

## **II. THE THRUST TOWARDS NATIONAL LAND REFORMS**

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A combination of political, economic and social factors – driven by internal and external factors – accounts for the wave of policies and laws aimed at restructuring land relations on the continent during the 1990s. Despite the great diversity and specificity of land-related problems and challenges in each country, the majority of African reforms have attempted to address the following issues: security of land tenure, especially for vulnerable groups; land redistribution; privatisation of land ownership; land management and administration in the context of political and administrative decentralisation; land-related disputes and conflicts; rural-urban links; and the place of land in broader development policies and strategies.

The results of reforms implemented during the 1990s are widely recognised as mixed. Reforming existing land tenure systems therefore remains on the agenda of several West African governments. While the land reform process is ongoing, the context in which reforms are implemented has changed greatly.<sup>23</sup>

- Decentralisation and devolution have been implemented particularly in francophone West Africa.
- The democratisation process has facilitated the emergence of civil society, user and interest group organisations that advocate and claim their role in the process of developing new land regimes.
- Both decentralisation and democratisation have influenced the way in which reforms are developed bringing to light that these are not technical processes but rather political ones. The practice of entering into political dialogue between stakeholders and the government from the local to the national level to develop new reforms (including land-related reforms) is more and more widespread.
- Development partners traditionally involved in land reform’s support have begun to review their current strategies and approaches capitalising on lessons learned from aid implementation. In the meantime, other bilateral and multilateral partners have shown a growing interest in tackling land issues as part of their work on governance, conflict prevention and management, peacebuilding and reconstruction.
- Lessons learned from reforms carried out all over the world have shown the limits of the existing tools (e.g. titling and land registration, redistribution of state land, processes of different rights’ recognition, etc.). The need to develop innovative tools that are context-specific is gaining consensus.
- Land-related conflict has appeared as a common concern and an increasing challenge to be addressed by a wide range of actors at all levels.

This chapter offers an overview of West African experiences in land reform processes which highlight a set of key challenges to be addressed: pluralism of tenure regimes; the protection of informal and secondary rights; the formalisation of land rights; risks and opportunities related to the emergence of formal and informal land markets; and decentralisation of land administration and management.

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<sup>23</sup> Some aspects were addressed at the workshop organised by UNDP Drylands Centre and ILC on “[Land Tenure for African Development: from Knowledge to Action](#)”, Nairobi, Kenya, 31 October – 3 November 2005.

## 2.1 Benin

Benin	
Total area	112,620km <sup>2</sup>
Population 2004	8.2 millions
Agricultural area	34,670ha
Arable land	2,650,000ha
Permanent crops	26,700ha
Permanent pastures	550,000ha
Forest area (2000)	2,675,000ha

Source: FAO and the World Bank 2006



Two significant events in Benin's recent political history occurred in 1990. In February 1990, a National Conference was held to end the revolutionary experience (1972-1989); and subsequently the launch of the democratisation process.

The 1972 Constitution adopted under President Kérékou's revolutionary regime sought to abolish the colonial legacy of land legislation<sup>24</sup> establishing the principle of State ownership of land. A National Committee was created during the 1980s to develop a proposal for a national land law. At the same time, the government initiated a vast programme of collective landholding and agricultural cooperatives. However, during the revolutionary regime no major reform was achieved. The National Committee did not succeed in raising the necessary funds to support its activities. The experiences of land collectivisation and cooperatives failed as local land practices continued to be under the control of traditional lineage-based land systems.

Since 1990 land issues have been on the top of the political agenda of the new democratic governments. The necessity of land reform was recalled in the most recent agricultural policy document adopted in 2001,<sup>25</sup> which also emphasises the importance of modernising family agriculture as a way to improve market access. The progress made in the implementation of decentralisation has helped keep land issues on the agenda. Five subsequent laws on decentralisation between 1999 and 2000 have recognised that local governments have the right to their own land domain. The legislation also establishes power devolution to decentralised authorities for land management and allocation.<sup>26</sup>

The current process to reform land tenure in Benin consists of three main initiatives: i) the rural land plan project (*Plan foncier rural*)<sup>27</sup>; ii) the development of a new land law based on the lessons learned from the land planning project; and iii) the preparation of an action plan to implement the law.

In 1999, a National Committee of experts and an Inter-Ministerial Monitoring Committee were established to draft the law; in 2001, a National Forum was organised to discuss the draft. In 2004, the Government adopted a text which is currently under the scrutiny of the Supreme Court before being examined by the National Assembly. However, the 2001 consultation was not considered satisfactory by some representatives of stakeholders and civil society organisations. In 2005, the Government agreed to carry out a wider consultative process with all major stakeholders (e.g. civil society, farmers' organisations, etc.) to develop a new land law through strengthened policy dialogue.<sup>28</sup>

Some major innovations are associated with the new law:

- It aims to provide a clear legal framework which takes into account local realities to address land issues in rural areas by integrating statutory and customary land tenure arrangements.

<sup>24</sup> Following Benin's independence, the main legislation remained which was inherited from colonial times, i.e. the law on land property (the decree of 1932 replaced by the 1965 law); the decree on public and private domain; and the decree on compulsory land acquisition.

<sup>25</sup> MAEP 2001.

<sup>26</sup> *Loi 97-029 du janvier 1999 portant organisation des communes en République du Bénin.*

<sup>27</sup> H. M. G. Ouedraogo 2004b.

<sup>28</sup> The International Land Coalition supports this process.

- It seeks to promote sustainable economic development. It focuses on rendering land rights more secure, promoting efficient land use and preventing land-related conflict.
- It envisages a procedure by which local populations can obtain a clarification process on customary lands via rural land plan operations. At the end of the process, a land certificate is delivered that can afterwards be converted into a full property title according to the ordinary matriculation procedure.

#### Benin – Key references

1991: [Benin's Constitution](#)

1999: Loi no. 98-030 du 12 février 1999 portant loi cadre sur l'environnement

2001: Déclaration de politique de développement agricole, Ministry of Agriculture, Breeding and Fishery

Official Websites (in French): [Ministry of Agriculture, Breeding and Fishery](#)

Others:

[Appui à la mise en oeuvre de la PAU au Bénin](#)

[Revue de la mise en œuvre des orientations de Praia au Bénin](#)

## 2.2 Burkina Faso

Burkina Faso	
Total area	274,000km <sup>2</sup>
Population 2004	12.8 millions
Agricultural area	10,900,000ha
Arable land	4,840,000ha
Permanent crops	60,000ha
Permanent pastures	6,000,000ha
Forest area (2000)	6,914,000ha

Source: FAO and the World Bank 2006



In Burkina Faso, following independence, land access and use in rural areas were regulated by the principle of legal dualism: the statutory land legislation inherited from the colonial period and maintained after independence in 1960; customary land laws and practices. In practice, most rural land was ruled by the customary land system through chiefs and nobility in charge of managing access to land and land use or to settle disputes.

In 1984, the Agrarian and Land Reform Act (RAF: *Réorganisation agraire et foncière*) was adopted under President Sankara's revolutionary rule. It established a national land domain over the entire national territory. Any previous land property or customary right was abolished; individuals and legal entities were entitled to only user land rights. Because it was viewed as an attempt to undermine customs, the law was opposed by chiefs and other actors holding customary land rights. At the same time, some specific groups like migrants, pastoralists and women considered the law as positive due to inequity and insecurity resulting from the previous system.<sup>29</sup> Although legislation provided for secure pastoral land use, accompanying measures were often lacking (e.g. management plans, establishment of wells) to effectively convert protection into practice.

Discontent regarding the application of the law and unforeseen consequences in terms of growing land disputes led to a revision of the RAF in 1991. The Land Act was adapted to fit with the key principles of the new Constitution and rule of law. The new law introduced the following major changes:

<sup>29</sup> In the northern sahelian part of Burkina Faso, the Rimaïbe groups were the slaves of the Fulani land owners. The abolition of customary land rights by the Land Act was clearly perceived by the Rimaïbe groups as a very positive measure.

1. Private property was re-established as an exception to the general principle of State land monopoly. However, private property was recognised under very severe conditions, while the common principle to access land remains use rights;
2. Local village committees (*Commissions villageoises de gestion des terroirs – CVGT*) were created to replace the former revolutionary committees (*Comités de défense de la Révolution*). They are responsible for land allocation and land use control;
3. The legislator abandoned the intention to regulate all natural resources (forests, wildlife, water, mining, etc.) with the same land act.

The 1991 reform was perceived as insufficient to reduce land-related disputes, manipulations and contestations; thus, it was further revised in 1996. Recognising the importance of local institutions to manage and administer lands, the objectives in the new text aimed to “1) having a land law relevant and understandable to the general population; and 2) not handing “back” complete control in terms of ownership to “traditional authority”.<sup>30</sup> In parallel to the implementation of the decentralisation process, Burkina Faso also reformed legislation on forestry (1997), water and pastoralism (2002). This legislation put forward the principles of dialogue, subsidiarity and participation in resource management.

It appears that the 1996 land law has not produced the expected results in the field. In 2005, the government decided to prepare a policy document on the security of rural land tenure. While developing this document a national consensus on land issues and land security options is being sought through policy dialogue which aims to provide the government with guidelines to identify the best land tenure security options. These are: i) recognition of land rights of all rural actors, particularly poorer small farmers; ii) decentralisation of rural land management systems and local participation; iii) promotion of legitimate local land institutions; iv) promotion of alternative land dispute resolution mechanisms; v) capacity building in land management and land governance at the local level. The land policy process will be the basis for future revision of the land law in 2006.

Once this land policy document is adopted, Burkina Faso will be one of the very few West African countries (after Ghana and Guinea) to have such a document. Any future rural land law will then have to build on consensual land policy guidelines. How this process will contribute effectively to better land tenure security for farmers remains a major stake.

#### Burkina Faso – Key references

- 1996:** Loi no. 14/96/ADP du 23 mai 1996, portant réorganisation agraire et foncière
- 1997:** Loi no. 006/97/ADP du 31 janvier 1997 portant code forestier
- 2001:** Loi no. 002-2001/AN portant loi d'orientation relative à la gestion de l'eau
- 2002:** Loi no. 34-2002/AN du 14 novembre 2002 portant loi d'orientation relative au pastoralisme
- 2004 :** Loi n° 055-2004/AN du 21 décembre 2004 portant Code général des collectivités territoriales au Burkina Faso

Official Websites (in French):

- <http://www.legiburkina.bf/>  
<http://www.primature.gov.bf/>  
<http://www.sggcm.gov.bf/>  
<http://www.presidence.bf/>

<sup>30</sup> C. Lund 1997, p. 6.

## 2.3 Cameroon

Cameroon	
Total area	475,440km <sup>2</sup>
Population 2004	16 millions
Agricultural area	9,160,000ha
Arable land	5,960,000ha
Permanent crops	1,200,000ha
Permanent pastures	2,000,000ha
Forest area (2000)	22,345,000ha

Source: FAO and the World Bank 2006



While considering Cameroon's land issues it should be noted that over a short period of time this country experienced three different colonial rules: Germany, France and Great Britain.<sup>31</sup> It also has an ecological specificity with extended forests (about 75% of the landmass) and only 15% of national territory under cultivation.<sup>32</sup>

According to the 1972 Constitution, the Head of State is authorised to adopt land legislation. Thus, a revised law entered into force in 1974 and 1976. It sought to reduce the differences between the land regimes inherited from the French and British colonial rule as a way to strengthen the country's unity<sup>33</sup> and promote rational use of land. In practice, preference was given to the French and German systems. The 1974 land law abolished the recognition of customary land rights, imposed titling as the sole way for acquiring private property and empowered the State as guardian of non-registered land (national domain). Use rights were recognised by local communities on land in the national domain.

The 1974 land tenure regime is still in force but is deemed generally ineffective, except for a small minority of non residents interested in buying and securing land resources. Land acquisition by agro-business firms tends to limit access opportunities by individuals, mainly poor or local governments in rural and peri-urban areas. Complex and costly land administration risks exclude Cameroonians from seeking to obtain a title.

As elsewhere in Africa, a wide range of customary land tenure systems coexist in Cameroon. This range reflects ethnic traditions and production systems. A clear distinction can be made between groups that are traditionally mainly involved in agriculture activities and those that are prominently pastoralist. Concerning the first group, the village chief plays a key role: land is entrusted to the village chief who generally is the direct descendant of the first settler. Use rights are granted to households represented by their chiefs. Historically, herders' groups (mostly based in the northern part of Cameroon), were granted land rights to pastures by local chiefs in exchange for tributes (money or in kind). In some areas (Mandara mountain range) they acquired land by force.

Various land related conflicts occur in Cameroon many of which are linked to internal migration movements (e.g. Bamilikés in the Nyombe region) and settlement of herders into agricultural areas. Nowadays, conflict is increasingly related to the rapid development of a land market which is not based on the legal titling system, but rather on informal local practices ruled by local chiefs. Generally, land is sold by autochthonous people to migrants; in some other cases land is rented to agro-business firms. Validation mechanisms are organised through the local administration. Such a situation leads to double selling, conflicts and progressive illegal occupation of portions of agro-industrial registered and titled lands (*grignotage*).

Three ongoing experiences in Northern Cameroon are worth mentioning:

<sup>31</sup> Cameroon was first occupied by Germany at the end of 19<sup>th</sup> century. However, Germany lost its colonial hold of Cameroon at the end of the First World War. As established by the Versailles Treaty in 1919 portions of Cameroon were granted to France and Britain.

<sup>32</sup> M. Hobbs 1998.

<sup>33</sup> Cameroon is the only bilingual country in West Africa. Its official languages are French and English.

- i) Formalisation of oral, local land transactions through the development and generalisation of “*petits papiers*” practices;
- ii) Community land delimitation;
- iii) Conflict prevention through protection of grazing areas.

Lessons drawn from these experiences could help develop a global land reform initiative in Cameroon.

Cameroon – Key references	
<b>1972:</b>	<a href="#">Cameroon's Constitution</a>
<b>1974:</b>	Ordinance no. 74-1 of 6 July 1974 to establish rules governing land tenure Ordinance no. 74-2 of 6 July 1974 on State land property
Official Websites: <a href="http://www.prc.cm">www.prc.cm</a> <a href="http://www.minef.cm">www.minef.cm</a>	
Others: <a href="http://www.afleg-minef.org/cmrapresent_fr.htm">http://www.afleg-minef.org/cmrapresent_fr.htm</a>	

## 2.4 Cape Verde

Cape Verde	
Total area	4,030km <sup>2</sup>
Population 2004	495,200
Agricultural area	74,000ha
Arable land	46,000ha
Permanent crops	3,000ha
Permanent pastures	25,000ha
Forest area (2000)	82,000ha

Source: FAO and the World Bank 2006

Land management systems are influenced by the history of Cape Verde society which is characterised by: a population based on slavery; a problematic climate and physical environment; an extended colonisation period; droughts and famines; high emigration, and; recent independence. Despite this past, the Cape Verde land regime has not experienced the same evolution throughout the archipelago.

In 1966, the Decree 47.314 established land use modalities as concerns tenant farming and sharecropping in order to increase agricultural production within the context of large land owners. However, its application remains difficult which has provoked subletting and a high level of (land) tax evasion. In 1983, the Agrarian Reform Law was adopted aiming to reform the land system while increasing the amount of land directly used notably abolishing the sharecropping agreement. The State has the option of expropriating unused land in order to allocate it to farmers without land who benefit from land use rights. The application of the law enables more land to be granted to farmers even if the land regime has not been able to be changed. Faced with many physical, technical, cultural and financial constraints, this Law was revoked in 1993. Little information is available on the state of the current debate as regards land reform in Cape Verde.

Cape Verde – Key references	
<b>1966:</b>	Decree 47.314 of 15 November
<b>1983:</b>	Loi de la Réforme agricole
Official website: <a href="http://www.governo.cv/">http://www.governo.cv/</a> (in Portuguese)	

## 2.5 Chad<sup>34</sup>

Chad	
Total area	1.3 million km <sup>2</sup>
Population 2004	9.4 millions
Agricultural area	48,630,000ha
Arable land	3,600,000ha
Permanent crops	30,000ha
Permanent pastures	45,000,000ha
Forest area (2000)	12,317,000ha

Source: FAO and the World Bank 2006



Chad is a huge landlocked country in central Africa where African forest, savannah and desert meet. The country is divided into three main agro-ecological areas:

- i) The South where agriculture and forestry activities are generally practiced.<sup>35</sup> The majority of the population are black-Africans and animists from the Sara group; land is ruled by a patrilineal land tenure system based on the main institution of the land chief.
- ii) The Centre where agro-pastoral activities are common. The population is a patchwork of different ethnic groups (Arabic, Fulbe, Toubou, etc.) that share Islamic culture. Sharia law divides land into private land and collective lands, the latter is further divided into dead (*terres de main morte*) and live lands.
- iii) The desert in the North inhabited by nomadic herders.

Due to its complex social and ethnic composition, Chad has experienced protracted political instability which escalated into civil war during the 1980s.

One of the most crucial issues in rural areas relates to conflict between farmers and herders which has become more frequent and violent. Among its causes are: mounting distrust between different ethnic groups, strong demographic pressure on land and natural resources and availability of arms. Four categories of conflict are identified related to: i) natural resource degradation; ii) obstruction of access of livestock to water and grazing areas; iii) destruction of cultivated areas; and iv) permanent socio-political tension.<sup>36</sup>

The exploitation of Arabic gum is also a cause of land-related violence. Arabic gum produced from *Acacia Senegal* trees is a highly valuable natural resource on the international market. Chad is the second producer in the world after Sudan. Arabic gum is considered a major economic opportunity therefore competition is stiff among rural communities for the control of acacia tree areas. Competition is generally between autochthonous farmers claiming their ownership of the land, and migrant groups, claiming for customary rights to exploitation of Arabic gum or for traditional pastoral land rights in those same areas. The production of Arabic gum has also encouraged land privatisation: with government's support, more and more people seek to obtain their own land in order to plant acacia trees. But access to private land is difficult in rural zones due to resource control by traditional chiefs. Also, local customs often prohibit tree planting. Where access to land is made possible, there is no guarantee of secure and peaceful use.

Finally, since 2000 oil exploitation has caused serious land concerns: the building of the pipeline between Chad and Cameroon required the expropriation of local communities and payment of appropriate compensation to land owners.

<sup>34</sup> This section draws on the work carried out by H.M. G. Ouedraogo in 2002 for the AfDB publication.

<sup>35</sup> From the colonial period to the first decade after independence, southern Chad was one of the first cotton production regions in Africa.

<sup>36</sup> B. Hamadou 1996.

Chad is one of the few countries in Africa that did not undergo global land reform after independence. Only three laws were adopted in 1967 to organise the land tenure regime based on principles derived from colonial legislation. These laws uphold the principle of State monopoly over land. All unused land is considered as State property, including community owned land. Although legislation recognises indigenous land tenure systems, the State makes it impossible for local communities to benefit from the recognition of their rights by requiring legal registration, titling and denying collective property rights.<sup>37</sup>

#### Chad – Key references

**1967:** Acts no. 23, 24 and 25 of July 22 on the status of social assets, the land ownership and customary laws and limitation of entitlements to land.

**2001:** Decree no. 215/PR/MES/2001 of April 24 on the Land Observatory in Chad

**2002:** Law no. 007/PR/2002 on the status of Rural Communities

Website: <http://www.izf.net/izf/Guide/Tchad/Default.htm>

## 2.6 Côte d'Ivoire

Côte d'Ivoire	
Total area	322,500km <sup>2</sup>
Population 2004	17.9 millions
Agricultural area	19,900,000ha
Arable land	3,300,000ha
Permanent crops	3,600,000ha
Permanent pastures	13,000,000ha
Forest area (2000)	10,328,000ha

Source: FAO and the World Bank 2006



Côte d'Ivoire is the second richest country in the ECOWAS' zone and the first richest in the WAEMU area. Since 2002, it has undergone a severe national crisis that degenerated into violence, instability and the partition of the country. The politisation of land issues is among the underlying factors of the crisis and the escalation of violence.<sup>38</sup>

Since the colonial period, traditional and modern agriculture systems have equally contributed to Côte d'Ivoire's development. To underpin the national economy based on tree crop cultivation, the ruling elites encouraged migrants from neighbouring countries – mainly Sahelian countries – to establish themselves in Côte d'Ivoire and provide labour in the agricultural sector. During the 1960s, Côte d'Ivoire experienced “*le miracle ivoirien*” but in mid-1980s, social and political change revealed an imminent economic crisis (“*la conjoncture*”). The economic crisis worsened due to strong demographic growth coupled with a failing education system and severe youth unemployment.

To address the economic crisis, the government emphasised food security and encouraged the return of the urban youth to rural areas where they were supposed to take up agriculture activities. However, the successful reinsertion of young urban dwellers into villages was hampered by increasing local land scarcity. As the application of the statutory legal framework on land was unclear, it was difficult for young Ivoirians to obtain secure access to land – a situation which also deteriorated levels of agricultural productivity.<sup>39</sup>

<sup>37</sup> R. Furth, *Chad country profile*. According to law 24, land ownership needs legal registration and titling to be valid. Law 25 declares the right of the State to expropriate any customary land right for public purpose.

<sup>38</sup> As such, the Linas-Marcoussi peace agreement has a land policy component.

<sup>39</sup> In 1987, it was considered that about 1% of land in Côte d'Ivoire was ruled by the modern land law. H. Sarassoro, *Le droit foncier ivoirien entre tradition et modernisme*.

Swiftly, the land issue became one of the most crucial development and political issues in the country. The State claimed ownership on non-matriculated lands on the basis of statutory law, whereas local communities considered themselves as the real and legitimate land owners, based on customs and traditions. While statutory property upholds individual land rights, customary property upholds collective and lineage land rights. The statutory land legislation was deemed as non effective at the same time as the customary laws appeared to be weaker. In a situation of legal confusion, conflict between State and traditional chiefs, chiefs and local farmers, autochthonous communities and migrants or “*allogènes*”<sup>40</sup> escalated in recurrence and intensity. The process of individualisation and loss of control of community land encouraged the massive installation of migrants as well as the establishment of industrial farms and active land acquisition by the urban elites. A generalised feeling of frustration by local populations accelerated the land crisis. Providing secure land tenure and an efficient land management system appeared henceforth as a key priority for the Côte d’Ivoire’s government.

A first attempt to reform land legislation was made as early as 1963.<sup>41</sup> Despite Parliament unanimously adopting the draft law, the Head of State renounced its entering into force due to of fierce opposition expressed by traditional chiefs.<sup>42</sup> Since then, several proposals have been made with a view to abolishing customary land rights and practices. *De facto*, however, in rural areas they continue to be applied by local actors who adapted them to changing social needs.

Since 1990, a land administration project (*Plan foncier rural*, see 3.1 below) was carried out to record land rights as they are perceived in the field. Lessons drawn from this experience would then be used to develop comprehensive land legislation, i.e. the 1998 Rural Land Law. This law established a national rural domain where land is divided into two categories: i) the permanent domain on which the State, other public bodies (*collectivités publiques*) and individuals have property rights; and ii) the transitional domain on which customary rights are exercised and concessions may be allocated by the State. Article 4 acknowledges both collective and individual customary rights. The controversial provision is contained in Article 1 which states that only Ivorian citizens can own rural land. Among the law’s strengths, some point out the attempt to simplify past procedures, promote equity and take into account customary practices for land relations and transactions.<sup>43</sup> However, the ambiguity of some provisions is also highlighted. Considering the current socio-political and economic situation in Côte d’Ivoire, this ambiguity might provoke unexpected effects and heighten tensions depending on how the law is applied in specific settings. In particular, land rights for migrants, descendents of migrants and youth who have left the country to settle in urban areas appears more insecure.

Politicised land issues have contributed to the eruption and persistence of the crisis in Côte d’Ivoire. Therefore, modifying the law and the conditions of its implementation throughout the country was set as a priority in the Linas-Marcoussis agreement (January 2003). Two measures were urged for the national reconciliation government to tackle problems related to the existing land regime: i) launch an information campaign targeting the rural population while at the same time progressively implement the law with a view to strengthening security of tenure; ii) amend the law (Art.26) to increase protection of rights particularly for those people that are not entitled to own land according to Article 1, e.g. descendents of migrants.

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<sup>40</sup> The French word *allogène* is used to identify Ivorian citizens from northern or eastern parts of the country that settle in the South and South-West.

<sup>41</sup> The Act of 20 March 1963 was never promulgated.

<sup>42</sup> The law envisaged State ownership of any non-matriculated land and asserted the principle “*la terre à ceux qui la travaillent*” (land should be owned by those farming it).

<sup>43</sup> A. Aka 2001.

### Côte d'Ivoire – Key references

**1971:** Décret no. 71-74 du 16 février 1971 relatif aux procédures domaniales et foncières

**1998:** [Loi no. 98-750 du 23 décembre 1998 relative au domaine foncier rural](#)

[Projet de loi relatif à l'amendement de l'article 26 de la loi no. 98-750 du 23 décembre 1998 relative au domaine foncier rural](#)

Official Website: <http://www.primature.gov.ci>

Others:

[Linas-Marcoussis Agreement](#)

[Revue de la mise en œuvre des orientations de Praia en Côte d'Ivoire](#)

## 2.7 The Gambia

The Gambia	
Total area	11,300km <sup>2</sup>
Population 2004	1.5 millions
Agricultural area	799,000ha
Arable land	315,000ha
Permanent crops	5,000ha
Permanent pastures	459,000ha
Forest area (2000)	461,000ha

Source: FAO and the World Bank 2006



The land tenure systems in The Gambia have been shaped by the British colonial legacy, Islamic religious values and jurisprudence, traditional beliefs and practices of the different ethnic communities living in the country. During the 1990s, simultaneous changes in land policies and administration occurring at different levels have strained the Gambian land tenure situation.

These changes relate to: the conversion of customary tenure to leasehold tenure; the centralisation of the planning process and powers of the State; the devolution and decentralisation of land management; and the reinforcement of customary tenure.<sup>44</sup> They have been addressed by the Lands Act complemented by the Land Acquisition and Compensation Act, the Physical Planning and Development Control Act, in the early 1990s the Surveying Act. These Acts were adopted with the primary objective of tackling uncontrolled urbanisation in Greater Banjul and other urban areas by empowering the Government to control the development planning process specifically on “designed areas”. The Land Acts also establishes local Land Administration Boards whose members are appointed by the Ministry of Local Governments and Lands.

Concerning NRM, new forest policy and legislation were adopted in 1995 and 1998 respectively which endorsed participatory management of natural resources.

### The Gambia – Key references

**1990:** State Lands Act  
Land Acquisition and Compensation Act  
Physical Planning and Development Control Act  
Surveying Act

**1995:** Forest Policy

**1998:** Forest Legislation

Official Website: <http://www.gambia.gm/>

<sup>44</sup> M. Schoonmaker Freudenberger 2000.

## 2.8 Ghana

Ghana	
Total area	238,500km <sup>2</sup>
Population 2004	21.7 millions
Agricultural area	14,735,000ha
Arable land	4,185,000ha
Permanent crops	2,200,000ha
Permanent pastures	8,350,000ha
Forest area (2000)	6,094,000ha

Source: FAO and the World Bank 2006



In Ghana, different land tenure and management systems co-existing since the colonial era have been endorsed by the 1962, 1969, 1979 and 1992 Constitutions. Land is classified into public and customary lands. State land are administered by the National Land Commission and ten regional commissions, which extend their administrative functions into the customary sector (e.g. through the supervision of the Office of the Administrator of Stool Lands).<sup>45</sup> In 1993, the Local Government Act (Act 462) provided for the creation of District and Metropolitan Assemblies which are active in several areas. They have legislative powers to create by-laws; grant planning permission and development permits; and enforce regulations and sanctions. However, these Assemblies, as well as the District Chief Executives, are accountable only to the Head of State.

The customary tenure and management system controls 90% of underdeveloped land and is not homogenous. Substantial differences exist between the North, the South and the West of Ghana although different customary systems share the common feature of “remain[ing] strong, dynamic and evolutionary” across the country enabling them to respond to economic, social and political developments.<sup>46</sup> A dual tenure and land management system prevails in the country with the statutory and customary systems being run in parallel rather than in coordination with each other. This situation has provoked contradiction, tenure insecurity and conflict, accelerated by the process of change in land and agrarian relations especially in urban and peri-urban areas.

A deeds registration system has functioned since the colonial period. A land title registration scheme was introduced in 1986, but has had minor impact due to its selective application. The National Land Policy approved in 1999 restated the strategic importance of ensuring the security of tenure through: i) ensuring that socio-economic activities are consistent with a sound land use system; ii) facilitating equitable access to land and security of tenure on the basis of registered interests; iii) protecting land owners and their descendants from becoming landless or tenants of their own lands; and iv) instilling discipline and order into the land market. The Policy sought to address the emergence of informal land markets which have flourished particularly in the South, underpinned by rapid urbanisation and increasing demand.

To achieve the objectives of the 1999 Land Policy, the Ghana’s Government has set up a “Land Administration Programme” (LAP,) with the support of key development partners (e.g. the World Bank, CIDA, GTZ, DFID, FAO, etc. See section 3 below).

Ensuring equitable access to land, improved transparency and accountability of land management institutions are key challenges to be faced through the land reform process in the coming years. Understanding the different stakes surrounding the “use of the nation’s land [...] in support of various socio-economic activities” in rural, urban and peri-urban areas is also critical.

<sup>45</sup> Some traditional authorities in the peri-urban areas of Kumasi have cast doubt on the relevance of the Office of the Administrator of Stool Lands as they are capable of managing their lands applying their own customary land and procedures.

<sup>46</sup> K. Kasanga & N.A. Kotey 2001.

## Ghana – Key references

1992: [Ghana's Constitution](#)

1999: Ghana Land Policy Document

Official Websites:

Government: <http://www.ghana.gov.gh/index.php>

Ministry of Local Government and Rural Development: <http://www.ghana.gov.gh/governing/ministries/governance/localgov.php>

Electronic resources on the Land Administration Programme:

<http://www.ghana.gov.gh/pbcopin/GHANA%20LAND%20ADMINISTRATION%20PROJECT.pdf>

[http://www.frr.co.uk/show\\_experience.php?id=176](http://www.frr.co.uk/show_experience.php?id=176)

<http://www.isodec.org.gh/campaigns/Rights/landreform.htm>

[http://www.oxfam.org.uk/what\\_we\\_do/issues/livelihoods/landrights/downloads/ghanasec.rtf](http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/downloads/ghanasec.rtf)

Others:

<http://www.ghanaweb.com>

<http://www.oxfam.org.uk>

## 2.9 Guinea<sup>47</sup>

Guinea	
Total area	245,900km <sup>2</sup>
Population 2004	9.2 millions
Agricultural area	12,450,000ha
Arable land	1,100,000ha
Permanent crops	650,000ha
Permanent pastures	10,700,000ha
Forest area (2000)	6,904,000ha

Source: FAO and the World Bank 2006



The land situation in Guinea is particularly complex due to the wide range of local situations as well as the country's particular history. Historically, from independence until the 1980s, Guinea remained politically isolated because of the nationalist and revolutionary choices of its leaders.

Unlike Sahelian countries, Guinea has significant water resources and land with high agricultural potential. Having such natural resources draws the interest of national private operators as well as foreign investors. Foreign investors are however mistrusting because of the country's recognised land insecurity situation. This insecurity is perceived in relation to the land situation said to be "Franco-Guinean contentious" and the land situation of the ex FAPA (agro-pastoral farms).

The contentious lands are former agricultural farms owned by Europeans<sup>48</sup> and abandoned after their hasty departure before independence in 1958. These farms were nationalised by the Guinean Government in 1976. Generally well-developed and thus of great economic value, today these farms sought after by the administrative elite<sup>49</sup>. The ex-FAPA land was farmed by former cooperatives during the first Republic. There were abandoned after the collapse of the regime and the break-up of the FAPA. After having benefited from State planning and outfitting, the ex-FAPA land increased in price and are today sought after<sup>50</sup>. All of this frenzy around developed land falls within the general context of the dispersal of land archives, encouraging the monopolisation by urban elite of better land.

<sup>47</sup> This section draws from H.M.G. Ouedraogo 2000.

<sup>48</sup> This refers mainly to the French but also some former Lebanese owners.

<sup>49</sup> In principle this land was conceded to government authorities in view of the high value.

<sup>50</sup> This land should have been made available to NGOs for setting up farmers.

For a long time Guinea has been experiencing the phenomena of agro-business which is now emerging in West Africa. Since 1985, the Republic of Guinea began reorienting its development policy by favouring the withdrawal of the State and encouraging the promotion of the private sector. These liberal orientations as regards development policy has materialised in the agricultural sector through notably the agricultural development policy letter (LPDA-1)<sup>51</sup>. Among the LPDA's principal strategic aims, particular attention was given by the Guinean authorities to promoting the development of a dynamic agricultural private sector. This required the creation of an encouraging legislative and regulatory environment notably by developing secure land legislation for investors. In 1992, Guinea had new land legislation which repealed and replaced that of the revolutionary period. According to the Guinean Constitution which recognises and protects owners' rights, the code affirmed the rights of individuals to obtain land ownership. According to the law, vacant sites without owners belong to the State. The Guinean Domain and Land Tenure Code does not address local land tenure. However, most of the land continues to be held in accordance with various local practices, variable according to the region but basing their legitimacy on the family and community rights established long ago. In practice, land legislation has remained ineffective in rural areas, its implementation meeting numerous difficulties, reducing the legal and economic impact of this land reform to almost nothing. A rural land policy document was developed in 2001 with a view to creating synergy between land issues and poverty reduction strategies<sup>52</sup>

#### Guinea – Key references

- 1991:** Lettre de politique de développement agricole
- 1992:** Ordonnance 0/92/019 du 30 mars 1992
- 2001:** Déclaration de politique foncière en milieu rural  
Décret D/2001/037/PRG/SGG portant adoption de la politique foncière en milieu rural

Official Websites:

<http://www.guinee.gov.gn/>

Others: <http://www.unccd.int/cop/reports/africa/national/2002/guinea-fre.pdf>

### 2.10 Guinea Bissau<sup>53</sup>

Guinea Bissau	
Total area	36,120km <sup>2</sup>
Population 2004	1.5 millions
Agricultural area	1,630,000ha
Arable land	300,000ha
Permanent crops	250,000ha
Permanent pastures	1,080,000ha
Forest area (2000)	2,120,000ha

Source: FAO and the World Bank 2006



Along with Cape Verde, Guinea Bissau is a former Portuguese colony. The colonial settlement began in the early 20<sup>th</sup> century. In 1919, the Portuguese decided that land occupied by natives (reserved areas) could not be conceded, except if the person wanting a concession had been able to obtain consensus of the concerned local community. As the Portuguese population increased in the colony, efforts were made to take control of native lands. Land expropriation was authorised out of public interest. Natives' dispossession of land increased even further since the 1960s when land was classified into three categories

<sup>51</sup> Adopted at the donors' round table on the agricultural sector, in 1991 (9 to 11 December 1991). The LPDA-1 followed-up the carrying out of the following priority objectives: the promotion of food security; the relaunching of crop exportation; and better management of natural resources.

<sup>52</sup> Decree D/2001/037/PRG/SGG.

<sup>53</sup> This section is based upon a paper on Guinea Bissau prepared for the Praia +9 Forum, CILSS, 2003 (available in Portuguese only).

(Decree of 1961): urban lands; lands delimited for collective allocation to the population and shared use according to local customs; and the so-called vacant lands. Colonial authorities were the sole authorities entitled to decide on land classification.

Many abuses were reported during this process. The concept of vacant land became one of the ways in which the expansion of colonial settlement was encouraged. Two factors made this easier: all land belonged to the colonial State; the concept of reserved areas was restricted only to cultivated or inhabited areas. The colonial rule ended in 1974 with the national liberation war led by the PAIGC. Subsequently, Law No. 4/75 was adopted that nationalised all land under State ownership. However, in order to avoid a legislative vacuum, the government continued to apply the 1961 Colonial Decree on Concession. In the mid 1980s, the development community in Guinea Bissau urged the government to change the land law. A first draft was submitted to the National Assembly in 1985 but was not adopted. The Land Reform Commission submitted a new proposal in 1990 which also failed to be adopted by the National Assembly. Meanwhile, the land concession regime continued to be applied and subsequently strengthened.

The failure of these initiatives to reform the land tenure system can be explained by considering the strong disagreement, within the Guinea Bissau society, between those who supported the full liberalisation of land and those who defended State access to land through the concession system. In the end, a new land law came into force in 1998 (two months before the Bissau War). Based on a participative process, the law sought to a compromise between these two divergent positions. It maintained State ownership over land but also acknowledged the existence of use rights for individuals. There were three core objectives: 1) guarantee farmers access land; 2) integrate customary rules and practices into the new law; and 3) stimulate the development of a land market.

The new law took account of existing customary land institutions, established the principle of land taxation, and created new institutions in charge of land management from the local to the central level. Key challenges for its implementation concern the link between the land legislation and the decentralisation process, the integration of local practices and traditional institutions; effective land taxation; and broader governance issues in relation to land at the national as well as at local level.

#### Guinea Bissau – Key references

1919: Administrative rule no. 597

1961: Decree no. 49.894 (land classification)

1998: Land Law

Others: <http://www.cilssnet.org/> or [http://www.fao.org/documents/show\\_cdr.asp?url\\_file=/DOCREP/005/Y3932T/y3932t06.htm](http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/005/Y3932T/y3932t06.htm)

## 2.11 Liberia<sup>54</sup>

Liberia	
Total area	111,400km <sup>2</sup>
Population 2004	3.2 millions
Agricultural area	2,602,000ha
Arable land	382,000ha
Permanent crops	220,000ha
Permanent pastures	2,000,000ha
Forest area (2000)	3,455,000ha

Source: FAO and the World Bank 2006



The Liberian land regime was first based on the views advocated by the *American Colonization Society* for the creation of an independent community of agricultural land owners in Africa. Coastal land was acquired by Africans returning from America in return for concluded contracts with local chiefs.

<sup>54</sup> See J.P. Chauveau & P. Richards forthcoming.

At the beginning, interior land was not sought after but manoeuvres by colonial powers, in order to extend their grip on the continent, provoked Liberia to establish its international borders at the beginning of 1900.

A double land system was affirmed. Descendants of the first occupants and so-called civilised groups can be owners by obtaining a title issued by the government after approval by the head of State. All other land belongs to the State and only the State can sell off the land. A Land Commission was created in each administrative area which supervises the registration process, keeps the archives, resolves disputes and advises the government on land transfers. Local land resources in the rural area are managed by a customary authority on behalf of the community. Access rights under the customary regime are restricted to village inhabitants who are members of a certain lineage which are under the chief's authority.

This system penalises youth in particular who are historically marginalised as regards access to land resources when they do not respect the dominating agricultural production model (where they constitute cheap-paid labour) or they do not have family relations in Monrovia which would allow them access to land ownership. Women and migrants are in an even more precarious position as they can obtain access to resources through a parent or guardian.

The feeling of being a victim of injustices as much economically as socially has exacerbated the relations between youth and elders at the local level and deteriorated the relations between citizens and State institutions. This situation has fed into insecurity notably by encouraging the recruitment of child soldiers during the Liberian conflict. The stakes of land access are closely linked to the war's progress. The stakes also concern the equitable exploitation of abundant forestry resources in Liberia during a conflict situation. Current socio-economic reinsertion programmes of former combatants and displaced persons overlook rural agricultural and non-agricultural activities.

The lack of legal protection for persons, property and contracts in the rural environment, the strategic importance of wood production export and rapid urbanisation illustrate the need to address all aspects of the land issue, with a view to guaranteeing exit from conflict and sustainable development. Currently, land reforms are not among the government-envisaged actions in the short-term despite the fact that several Presidential candidates (including Ellen Johnson-Sirleaf who won the election) recognised the importance of addressing land issues. On the other hand, reforms have been underway since 2003 to better secure women's rights, notably as regards inheritance. In the absence of a reorganisation of the land regime, however, these reforms do not seem likely to produce expected results particularly in the rural environment.

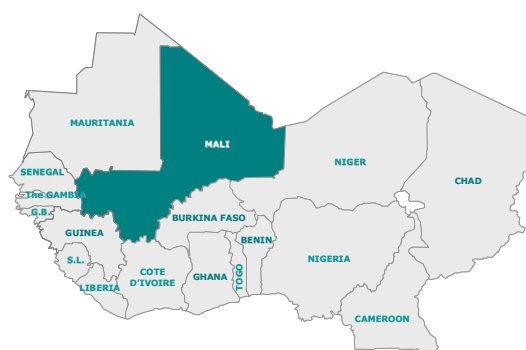
**Liberia – Key references**

1984: [Liberia's Constitution](#)

**2.12 Mali**

Mali	
Total area	1.2 million km <sup>2</sup>
Population 2004	13.1 millions
Agricultural area	34,700,000ha
Arable land	4,660,000ha
Permanent crops	40,000ha
Permanent pastures	30,000,000ha
Forest area (2000)	13,072,000ha

Source: FAO and the World Bank 2006



In Mali, populations live according to various cultural traditions. Due to a vast desert area, approximately 75% of the population are concentrated on 25% of the land. Such an unbalanced repartition of land causes various land-related problems and stakes according to the irregularity of regional and local contexts. The Malian land situation can be understood by distinguishing between the areas with less land availability and areas with a great deal of land.

In zones where less land is available, land is a very sensitive issue. Problems are linked to soil degradation combined with strong demographic growth and rapid urbanisation. The process of converting rural land into habitable land is continuing at a rapid rate in some regions (ex: Kati and Koulikoro circles in the Koulikoro region). Land conflict focuses on the claiming of land ownership (notably Kayes region) and on land problems linked to pastoralism (Ségou, Mopti regions, etc.). In the zones with abundant land availability where ecological conditions are generally favourable to pastoral and agro-pastoral activities, problems are linked to the influx of transhumant herds (Koulikoro and Sikasso regions) and competition around natural resources. Emphasis must be placed on land problems specifically linked to artisanal mining activities (gold exploitation in the Kayes or Sikasso regions).

In addition to the various local contexts, the land situation in Mali is complex due to the continuation of legal dualism. Legislation in force is constituted by the Domain and Land Tenure Code (2000) and its applied Decrees. The Code establishes a national domain comprised of all land on Malian territory, which includes that which belongs to the State as well as those belonging to local communities or private individuals (Art. 1). The national domain is the property of Malian Nation represented by the State. Customary land and so-called vacant land and without owners enters into private State domain. Along with this State legislation co-exists land practices anchored in animistic African traditions and in the vestiges of the Sharia linked to periods of Arab domination in the North of the country.

On the political level, the rural land issue in Mali is dominated by the *Office du Niger* land management problems, one of the biggest projects for irrigated land planning in Africa. Initiated during the colonial period, the Office of the land management system is based on the allocation of convertible land management of the Niger River Central Delta to a public structure (Office du Niger). In fact, despite the regulatory availability related to land tenure, regularly settled farmers have continued farming in a situation of great land precariousness without any land titles envisaged by the laws<sup>55</sup>. This precariousness is illustrated in the withdrawal of land parcels by producers notably in the case on non-or partial payment of the water tax. At the same time, international actors are actively invited and benefit from the attribution of vast land areas, various tax advantages and issuance of land titles. The Malian Government has also decided to make part of the *Office du Niger* land available to the CEN-SAD States [Community of Sahelo-Saharan States - Communauté des Etats sahélo-sahariens].

The land situation in Northern Mali is particular and should be underscored as it results from former land privileges acquired by some families since the Arab invasion period. These families hold vast territories and depend on access to natural resources by rural populations (farmers and shepherds), payment of taxes and land tax. Development operations and capitalising on land in this zone is sometimes hindered which can provoke an intensification of local conflicts.

In 2005, the government approved a new agricultural framework law based on a wide consultation with implicated actors at the national and local levels. Adoption of a similar approach is foreseen with a view to providing the country once again with available land before the 2007 Presidential elections.

#### Mali – Key references

**2000:** Ordonnance no. 00-027/P-RM portent Code domanial et foncier

**2001:** Décret no. 01-040-RM du 02 février déterminant les formes et conditions d'attribution des terrains du domaine privé de l'Etat

**2001:** Décret n°01-041/P-RM du 02 fixant les modalités d'attribution du permis d'occuper

Others: <http://www.cilssnet.org/> or [http://www.fao.org/documents/show\\_cdr.asp?url\\_file=/DOCREP/005/Y3932T/y3932t06.htm](http://www.fao.org/documents/show_cdr.asp?url_file=/DOCREP/005/Y3932T/y3932t06.htm)

<sup>55</sup> Farming contract, farming permit, ordinary or long lease.

## 2.13 Mauritania

Mauritania	
Total area	1 million km <sup>2</sup>
Population 2004	3 millions
Agricultural area	39,750,000ha
Arable land	488,000ha
Permanent crops	12,000ha
Permanent pastures	39,250,000ha
Forest area (2000)	317,000ha

Source: FAO and the World Bank 2006



Before independence in Mauritania, all land that was not claimed or recognised as being used was nationalised. At the same time, the Islamic principle of *Indirass* was confirmed, prescribing that property rights must be exercised in order to be renewed. Land use therefore had to be demonstrated through signs of occupancy, investment or cultivation (e.g. construction, irrigation infrastructure, etc.). A ten-year period was established after which land rights lapse. This period proved to be shorter (two years) in the most arid areas where signs of rain-fed agriculture leave few traces. Combined with the recurring droughts in the 1970s and 1980s, poor land access and use pushed the Northern Moor and Fulani populations southward to settle in the fertile zones of the Senegal River Valley.

In 1983-1984, the Mauritanian Government introduced a reform claiming that all Mauritians had equal rights to be landowners. Individual private property was established through registration and recognised as the standard form of landholding. Although customary land management and administration officially ended, all land that was not in the public domain or private property was declared to be covered by Islamic law. Private property and the productive use of irrigated land and agricultural areas were encouraged by law; while through the application of *Indirass*, the State benefited from the right for unused private ownership (land confiscation) land to be made available for public or private acquisition.

In a context where the value of fertile land has dramatically increased, many organisations have criticised the selective application of the law. In the Senegal River Valley, the law has favoured land access for population groups that did not traditionally live in the region (e.g. the Moors) but were attracted by the important agro-business opportunities in the area, to the detriment of the Black African settlers. Increased pressure over precious land resources and insecurity of tenure for Black Africans have heightened tensions between rival users on both sides of the border between Senegal and Mauritania. Land-related conflicts grew in number and frequency and eventually led to widespread violence, involuntary migration from Mauritania to Senegal and retaliation against economic migrants in Nouakchott and Dakar in 1989.<sup>56</sup> More than ten years after the resumption of diplomatic relations between the two countries, Mauritanian involuntary migrants find it difficult to return and claim their rights to land on the other side of the border since the Mauritanian Government attaches a strategic value to the Senegal River Valley for the development of agri-business by the new settlers. In the long term, the transfer of community or government owned lands to agri-business and other forms of infringements on the rights of involuntary migrants (and their descendants) may eventually plant the seeds for conflict in the area.

In August 2005, Mauritania's President, Maaouya Ould Sid Ahmed Taya, in power since 1984, was overthrown by the Military Council for Justice and Democracy. In September, the Council announced a general amnesty for all Mauritians who had been persecuted, indicted or sentenced for political crimes by the incumbent regime. This amnesty also concerns Mauritians who currently live in Senegal, e.g. between 20,000 to 30,000 people who have settled in 276 sites along the southern bank of the Senegal River. It is likely that land and land-related disputes will increase as exiled Mauritians return to the northern bank of the river and claim their rights over these lands. This situation will require special attention by land authorities at the local and national levels.

<sup>56</sup> M. Trémolières & D. Gnisci 2004; K. Hussein 1998.

The political situation in Mauritania is also likely to have major impact on the evolution of the land tenure regime in the country. A referendum to adopt a new Constitution is scheduled for mid-2006 while presidential and legislative elections are foreseen in 2007. To date, land issues have not yet been put on the national political agenda.

#### Mauritania – Key references

- 1983:** Ordonnance no. 83-127 du 5 juin 2005 portant réorganisation foncière et domaniale
- 1990:** Décret no. 90-020 du 31 janvier 1990, abrogeant et remplaçant le décret no. 84-009 du 19 janvier 1984 portant application de l'Ordonnance no. 83-127 du 5 juin 1983 réorganisation foncière et domaniale
- 2000:** Décret no. 2000-089 du 17 juillet 2000, abrogeant et remplaçant le Décret no. 90-020 du 31 janvier 1990
- 2004:** [National Action Plan for the Environment](#) (in French)

Official Websites:

<http://www.mauritania.mr/fr/index.php>

<http://www.mauritania.mr/fr/communiquésPrimature/communiquéprimature.pdf>

### 2.14 Niger

Niger	
Total area	1.3 million km <sup>2</sup>
Population 2004	13.5 millions
Agricultural area	38,500,000ha
Arable land	14,483,000ha
Permanent crops	17,000ha
Permanent pastures	24,000,000ha
Forest area (2000)	1,328,000ha

Source: FAO and the World Bank 2006



With its 1993 Rural Code, Niger set a regional precedent for NRM issues in a practical and integrated manner.<sup>57</sup> According to the Rural Code, land and natural resources are part of the Nation's patrimony. However, such a provision does not imply that land is owned by the State. It only indicates that the State is responsible for equitable access to land and natural resources for the livelihood of present generations and sustainable use for preservation of the future generations' rights. The Code recognised customary rights and allowed them to be registered. This can be considered as a legal revolution in francophone West Africa, as most legislation claims State ownership of rural lands. The Code establishes that both customary and statutory land rights benefit from equal protection of the law and judicial institutions (Article 5). It should be noted that the State does not hold any special privilege in owning land: it has to provide evidence (e.g. a title) for any right claimed on land although the Code affirms that all vacant land belongs to the State.

The Rural Code sets out that pastoralists have use rights on natural resources in order to carry out their livestock activities. According to circumstances, those rights are qualified as common use rights (relating to grazing areas) or priority use rights (relating to land in the so-called "*terroirs d'attaches*"). Priority use rights provide pastoral communities with clear recognition of their rights to pastoral lands without excluding other users.

The Rural Code seeks to integrate administration and management functions and bring previously State-managed land administration to the local level through the establishment of Land Commissions at the district level. In 1996-1997, a number of enforcement laws were adopted to promote the laws' effective

<sup>57</sup> H. M. G. Ouedraogo 2003.

implementation. For example, decrees on land development, protection conditions for pastoral lands (“terroirs d’attache”) and institutional bodies in charge of the Code’s implementation were adopted by the Government.

The Land Commissions are the key institutions responsible for the implementation of the Rural Code. They function as advisory bodies on land management and rural concessions; they prepare the deeds and control land development. The composition of these commissions, however, is considered to be too technocratic: state and local administrative bodies dominate the commissions while peasants, pastoralists and women’s organisations are under-represented. Because commissions were often located within the district rather than the village, they were habitually inaccessible to most communities, hampering people’s effective participation.<sup>58</sup> Recently, the Government decided to correct this situation by establishing village commissions (*Commissions foncières de base*).

In 1998, Niger adopted specific laws concerning hunting and wildlife protection, fisheries, and environmental management. Rural authorities could reallocate common areas, pastures and underdeveloped areas due to the recent decentralisation process (2002-2003) combined with excessive emphasis on active use and narrow interpretation of legislation with regard to legitimate land uses.

Despite a few shortcomings identified by many observers, the decentralised land administration system in Niger is considered effective. Procedures for obtaining the recognition of customary land rights are simple and fully undertaken locally. The costs for delivering needed documents are decided by each local commission, according to local realities. As a result, procedures are simple and affordable. The main challenge ahead is the Code’s full implementation throughout Niger.

The CILSS presents the institutional framework<sup>59</sup> established by the 1993 Rural Code as a model for the region to address integrated rural development issues.

#### Niger – Key references

- 1993:** Ordonnance no. 93-015 du 2 mars 1993 portant Principes d’Orientation du Code rural  
Ordonnance no.93-016 du 2 mars 1993 portant sur le Code minier
- 1997:** Décret no. 97-006/PRN/MAG/EL du 10 janvier 1997 portant Réglementation de la mise en valeur des ressources naturelles  
Décret no. 97-007/PRN/MAG/EL du 10 janvier 1997 fixant le statut des terroirs d’attache des pasteurs  
Décret no. 97-008/PRN/MAG/EL du 10 janvier 1997 portant organisation, attribution et fonctionnement des institutions chargées de l’application des Principes d’Orientations du Code rural  
Décret no. 97-367/ PRN/MAG/EL du 2 octobre 1997 déterminant les modalités d’inscription des droits fonciers au Dossier rural
- 1998:** Loi no. 98-07 du 28 avril 1998 fixant le régime de chasse et de la protection de la faune  
Loi no. 98-042 du 7 décembre 1998 portant régime de la pêche  
Loi cadre no. 98-56 du 29 décembre 1998 relative à la gestion de l’environnement
- 2001:** Loi no. 2001-23 du 10 août 2001 portant création des circonscriptions administratives et des collectivités locales
- 2002:** Loi no. 2002-12 et no. 2002-13 du 11 juin 2002  
Loi no. 2002-13 du 11 juin 2002 portant transfert de compétence de l’Etat aux collectivités locales

Others:

[http://www.cilssnet.org/prai9/commentaires\\_activitespostforum/niveau\\_Pays/Missioncofo\\_Niger.doc](http://www.cilssnet.org/prai9/commentaires_activitespostforum/niveau_Pays/Missioncofo_Niger.doc)

[http://www.afdb.org/pls/portal/docs/PAGE/ADB\\_ADMIN\\_PG/DOCUMENTS/OPERATIONSINFORMATION/NIGER%20DSP%202005-2009.DOC](http://www.afdb.org/pls/portal/docs/PAGE/ADB_ADMIN_PG/DOCUMENTS/OPERATIONSINFORMATION/NIGER%20DSP%202005-2009.DOC)

<sup>58</sup> L. Alden Wily 2003.

<sup>59</sup> Composed of the National Committee on Rural Code, the Permanent Secretariat of the Rural Code and the Land Commissions at the district level.

## 2.15 Nigeria

Nigeria	
Total area	923,800km <sup>2</sup>
Population 2004	128.7 millions
Agricultural area	72,600,000ha
Arable land	30,500,000ha
Permanent crops	2,900,000ha
Permanent pastures	39,200,000ha
Forest area (2000)	13,137,000ha

Source: FAO and the World Bank 2006



Nigeria's population is made up of 374 ethnic groups. In traditional societies land was not held as an asset by individuals; it was vested in the group which could be the extended family, the village or the community.<sup>60</sup> The land policy development process is linked to urban development issues.

State monopoly was the prevailing land policy option. Just after independence in 1962, the Government of Northern Nigeria enacted a land tenure law according to which all lands were under the control of the Governor who held and administered them for the use and common benefit of the region's autochthons. Despite this law, the Government and individuals faced mounting difficulties in acquiring land (mainly in urban centres) for development purposes. The growing demand for land was due to the urbanisation process and the oil boom. This situation aggravated active land speculation.

Such problems were addressed by the Land Reform Commission and the Constitution Drafting Committee in 1977. Both recommended the nationalisation of all under-developed lands. The Federal Military Government led by General Olesugun Obasanjo adopted the Land Use Act in 1978. The Government decided to go even beyond the proposal put forward by the Land Reform Commission by nationalising all lands.

The Land Use Act vests all land in the territory of each state (except land vested in Federal Government or its agencies) exclusively in the Governor of the State. The Governor holds such land in trust for the population and administers it on behalf and for all Nigerians. The Governor is responsible for the control and management of land in urban areas; similar powers with respect to non-urban areas are conferred to Local Governments. Each Governor is assisted by a Land Use and Allocation Committee for the management of urban lands, while each local government is assisted by a land advisory Committee for the management of rural lands. The Governor has the power to grant land to any person with occupancy statutory rights for all purposes; it is lawful for local governments to grant any person with customary rights of occupancy for agricultural, residential and other purposes.

The Land Use Act is considered controversial. Some see the law as pursuing a socialist egalitarian objective to ensure equitable distribution of land resources. Others object viewing the Land Use Act as inconsistent with the principles of fairness and justice because it has made it possible for land once belonging to local communities, to be taken away while corruption has risen. Furthermore, the law does not provide secure tenure to those holding an occupancy certificate, as the Governor has the power to revoke such certificates overriding public interest (e.g. way-leaves, prospecting for oil, mining activities or oil pipelines). In rural areas it seems that the Land Use Act has failed to achieve its egalitarian objectives<sup>61</sup> and traditional authorities still exert influence over land management. In urban areas, it has failed to halt speculation and has increased corruption. Pressure is currently made to get the Land Use Act reviewed or even repealed.

<sup>60</sup> R. W. Taylor 1988.

<sup>61</sup> O. Oyewamide 2004.

## Nigeria – Key references

1978: Land Use Act of 29 March 1978

Official website: <http://www.nigeria.gov.ng/>

Others: [http://www.fao.org/ag/aql/swlwpnr/reports/y\\_sf/z\\_ng/ng.htm#submenu2](http://www.fao.org/ag/aql/swlwpnr/reports/y_sf/z_ng/ng.htm#submenu2)

## 2.16 Senegal

Senegal	
Total area	196,700km <sup>2</sup>
Population 2004	11.4 millions
Agricultural area	8,157,000ha
Arable land	2,460,000ha
Permanent crops	47,000ha
Permanent pastures	5,650,000ha
Forest area (2000)	8,898,000ha

Source: FAO and the World Bank 2006



Land legislation is comprised of a series of legal texts and regulations based upon the 1964 National Domain Law (64-46) and the 1972 Rural Communities Act (72-75). Decentralisation increased during the 1990s enabling the transfer of powers in the fields of land management, environment, NRM and spatial planning [*aménagement du territoire*] to regions, communes and rural communities.

This land regime applies to 95% of rural lands; it defines State lands as all lands that have not been registered prior to the 1964 law. State lands fall into four categories: i) urban areas; ii) classified forests, national parks, etc.; iii) community land; and iv) pioneer zones. Land can be accessed through occupation, authorisation, ordinary lease, long-term lease and concession. Locally-elected officials in rural communities can allocate land according to customary practices as long as lands are productively used (*mises en valeur*). This principle, however, is contrary to the first condition for land allocation set out by the law, i.e. being an individual or group member of the rural community.

The 1964 law does not recognise pastoralism as a viable form of land use although a decree passed in 1980 provided for the reservation of certain grazing areas for herders. However, a clear definition of such areas was not defined and there continues to be a great amount of tension between farmers and herders in specific zones, e.g. in relation to access to water resources.<sup>62</sup>

In 1996, an action plan for sustainable NRM was developed by the government with a view to initiating debate on land reform.<sup>63</sup> The Senegalese land regime is based on national legislation and decentralised management. Among the strengths identified in the action plan, three stand out: i) the principles of equity and democracy; ii) the zonal approach; and iii) free access to land. However, the insufficient manner in which land access and management conditions are implemented leaves room for improvement as concerns insecure land rights for specific social groups and insufficient investment, both of which relate to the importance of the issue of productive use [*mise en valeur*].

In 2003, a draft framework law for agro-sylvo-pastoral development illustrating political sensitivities on the nature of land reform was submitted to the National Assembly. When the law was enacted in spring 2004, following extensive consultation with rural producers and civil society, the chapter devoted to land issues was removed to avoid delay in the approval of this law. The debate on land issues was thus separated from the discussion on agricultural policy and rural development. This highlights the difficulty in mediating conflicts of interest between different stakeholders and reaching consensus on the feasibility and content of land reform. Nonetheless, land reform remains top priority for the Senegalese government

<sup>62</sup> M. Trémolières & D. Gnisci 2004.

<sup>63</sup> Ministère de l'Agriculture du Sénégal 1996.

and producers. In early 2005, in an official speech President Wade outlined his view on the key orientations of this law.<sup>64</sup> Subsequently a commission on land law has been set up with the aim to review the 1964 law and prepare a land reform law.

#### Senegal – Key references

- 1964:** Loi no. 64-46 du 17 juin 1964 relative au domaine national
- 1972:** Loi no.72-25 du 19 avril 1972 relative aux communautés rurales
- 1981:** [Loi no. 81-13 du 4 mars 1981 portant code de l'eau](#)
- 1988:** Loi no. 88-05 du 20 juin 1988 portant de l'urbanisme
- 1996:** [Loi no. 96-03 du 26 février 1996 portant code de l'environnement](#)  
Plan d'action foncier du Sénégal, Ministère de l'Agriculture, Dakar, octobre  
Décret no. 96-1134 du 27 décembre 1996 portant application de la loi de transfert des compétences aux régions, aux communes et aux communautés rurales en matière d'environnement et de gestion des ressources naturelles
- 1998:** [Loi no. 98-164 du 20 février 1998 portant code forestier](#)
- Others:  
Document d'orientation stratégique sur la politique agricole: <http://www.gouv.sn/politiques/polagricole3.html> [Revue nationale du foncier rural](#)

### 2.17 Sierra Leone<sup>65</sup>

Sierra Leone	
Total area	71,400km <sup>2</sup>
Population 2004	5.3 millions
Agricultural area	2,845,000ha
Arable land	570,000ha
Permanent crops	75,000ha
Permanent pastures	2,200,000ha
Forest area (2000)	2,851,000ha

Source: FAO and the World Bank 2006



The population of Sierra Leone is characterised by the split between interior populations and those of the Sierra Leone peninsula who are descendents of former emancipated slaves and make up the core of the inter-African society who speak the same language based on commercial English (*Krio*). When the latter aspired to extend their economic hold on the hinterland, land ownership under indirect rule was allocated to communities who were able to prove their first occupation was related to land. The power of land management and land resources administration was entrusted to local authorities on behalf of the communities. They were responsible for applying the customary rules to land issues but also those related to labour, marriage or inheritance. All of these issues permeate the local socio-economic and cultural systems and affect agrarian relations in Sierra Leone. Land rights of nationals of other communities, youth and women are limited to the location or usage and submitted to decisions by land owners. Furthermore, their legal, economic and social rights depend on local authorities to contact the customary authorities in case of difference of opinion, obtaining a salary, marriage, etc.

<sup>64</sup> The reform was to have four objectives, i.e. « *valorisation de la terre, amélioration de la qualité des transactions, prospérité du monde rural et protection de notre environnement* » (adding value to land and putting land to productive use; improve the quality of transaction; prosperity of the rural community; and protection of our environment). It is to be developed in consultation with actors and stakeholders throughout the country. Its implementation will be progressive and based upon pilot testing. 'Rentrée solennelle des cours et tribunaux' – allocution de maître Abdoulaye Wade, Président de la République, Dakar, Sénégal, 12 janvier 2005. Available at: [http://www.gouv.sn/discours\\_pres/imprimer.cfm?numero=297](http://www.gouv.sn/discours_pres/imprimer.cfm?numero=297).

<sup>65</sup> See J.P. Chauveau & P. Richards forthcoming.

This system has been maintained after independence and pushes the most penalised actors into a situation of insecurity and marginality in the rural environment. Youth, in particular, turn towards mining or urban activities seeking economic opportunities and social emancipation possibilities. Indeed, despite these potentialities, agriculture is not a national priority because of significant available mining resources (diamonds, etc.) of which the State is the owner. Artisanal mining is exploited by employing rural labour under the direction of local chiefs, who continue the same inequalities characteristic of an agrarian production system. Youth who are unable to succeed economically nor socially in agriculture or the mining sector, settle into a precariousness and hyper-mobility which increasingly push the limits of society which explains their recruitment as combatants during conflict. In the triggering and then evolution of conflict, several analyses underlie the role of agrarian relationships, and particular land access insecurity as much as a source of livelihood and identity.

Before the war, the need to reform the land regime did not seem important despite the growing split between the capital and the rest of the country. The traditional land system dismantled during the conflict was re-established during the reconstruction phase with the support of international partners. A legal reform notably at the local level began at the same time that a new mining policy was approved by the Government. Land reform, on the other hand, is not on the list of priority actions despite its strategic importance for the success of the socio-economic reinsertion programmes and the construction of peace.

#### Sierra Leone – Key references

Official website : <http://www.sierra-leone.org/govt.html>

### 2.18 Togo

Togo	
Total area	56,790km <sup>2</sup>
Population 2004	6 millions
Agricultural area	3,630,000ha
Arable land	2,510,000ha
Permanent crops	120,000ha
Permanent pastures	1,000,000ha
Forest area (2000)	486,000ha

Source: FAO and the World Bank 2006



Despite its dimensions, the country is surprisingly diverse ecologically and ethnically: the northern area is a savannah zone while the southern coastal region is a tropical forest zone. Ecological and ethnic diversity accounts for the diversity of local land tenure systems. Togo faces strong pressure related to land and overexploitation due to high population growth.<sup>66</sup>

The country was colonised by Germany and then France and both sought to promote land registration. However, customary tenure systems remained and success was achieved only in a few urban areas. In the context of plantation agriculture (southern Togo), unregistered land did not provide enough incentive for productive investments. In the north, there were increasingly violent conflicts between farmers and herders. From the mid 1970's, Togolese authorities considered the promotion of tenure security as a top policy priority.

In 1974, land reform was promulgated. Togo's land law classifies rural land into three categories: i) individual private lands regularly owned according to the laws and regulations in force; ii) land owned by the State as part of its public or private domain; iii) national domain lands. National domain land is neither owned by the State nor by individuals and is Togo's heritage which consists of all unused lands

<sup>66</sup> 2.1% per year and a population density of 84,5 inhabitants per km<sup>2</sup>.

gathered by the State not as State property, but for agricultural development programmes to benefit the Togolese population.<sup>67</sup>

When the law was adopted it set a precedent in the region: the previous controversial principle of “*terres vacantes et sans maîtres*” [vacant land without owner] employed by colonial authorities to incorporate customary lands into the State domain was abandoned. The law recognised local communities’ customary land rights under the condition that they are effectively in use or possible to use. Unused lands became part of the National domain lands.<sup>68</sup> The objective was to promote a balanced position as regards customary land rights: recognition of legitimate local land use rights but condemnation of abusive land claims on huge territories on the basis of primo-occupation or traditional chieftaincy considered by the legislator as out-of-date. Through the National domain the State takes over the absentee customary landlords to encourage investment in land, with the aim to allocate plots as property to those who will effectively invest in the land.

The 1974 land reform has been generally considered positive of which the implementation is nonetheless patchy. Except for two decrees adopted in 1977 and 1978 no implementation regulations were established. The agricultural development programmes on National land domain never came to fruition. Finally, the procedures to recognise and register customary land rights proved to be too complicated and costly, thereby being ignored by the rural population. Currently, there is a need to assess the 1974 reform to enable effective land tenure security for rural producers.

#### Togo – Key references

**1974:** *Ordonnance no. 12 du 6 février 1974 portant réforme agrifoncière et domaniale au Togo*

**1997 and 1998:** Decree no. 77/165 and Decree 78/46 on ZAAP's (*zones d'aménagement agricole planifié*)

Others:

Appui à la mise en oeuvre de la PAU en matière de sécurité alimentaire au Togo: <http://www.fao.org/tc/spfs/pdf/togo.pdf>

### **III. EXTERNAL SUPPORT TO LAND REFORM PROCESSES IN WEST AFRICA<sup>69</sup>**

Through development cooperation, international partners (i.e. OECD Member countries, UN specialised agencies, multilateral organisations, international financial institutions, etc.) have contributed to shaping West Africa’s land reform agenda. Several initiatives have been carried out which account for various experiences in reforming land regimes across West Africa.

<sup>67</sup> Local communities consider that they are the legitimate owner of land incorporated in the National domain can benefit from a 5 year period to reach the required investments for their right to be confirmed.

<sup>68</sup> The law recognises that local communities may let a plot lie fallow; such lands are not considered by the law as unused.

<sup>69</sup> This section builds on the results of the survey carried out by the SWAC Secretariat in 2005 and early 2006 with the contribution of Aude-Sophie Rodella, Ph.D. candidate at the *Centre d'Etudes et de Recherches sur le Développement international*, France. The survey enabled information to be collected on OECD Member countries and multilateral partners’ initiatives and programmes in support of land reform processes and addressing land issues in conflict and peacebuilding in West Africa. Five questions were raised concerning: the focus of such initiatives (objectives, approach, countries and populations covered, etc.); achievements, strengths and weaknesses identified; linkages between land, agricultural transformation and conflict; role of each partner in the implementation and experiences acquired; and relevance of a regional approach to support the land reform agenda in West Africa. A few secondary data has been used to complete the information collected in the survey. The SWAC Secretariat would like to thank all those who replied to this survey for their availability, the relevance of the information provided and their valuable comments.

While different land situations are present in the region, a current common feature is the limited level of land registration estimated at approximately 5% of the total area. Yet international support to land reform has historically focused on land registration with a view to protecting ownership and individual rights. Emphasis has been placed on strengthening land administration from the central to the local level, land titling, enabling the creation of efficient land markets, etc. This approach has proven insufficient and produced contradictory results particularly in terms of tenure security for vulnerable land users. Its sustainability and relevance have also been questioned in relation to the complexity and diversity of the problems and situations at hand.

Due to the political sensitivity of land reform as well as its long-term nature, external partners have generally provided indirect support to reform implementation. Moreover, they have attempted to address land issues through their overall assistance to agriculture, food security, NRM, MDGs and the environment, etc. International actors involved in conflict prevention, management, resolution, DDR, reconstruction and peacebuilding have also expressed their interest in addressing African land issues for their activities to be successful. For example, OECD Member countries and observers to the [DAC Conflict, Peace and Development Cooperation Network](#) have developed issues briefs to help field staff systematically take land-related conflict issues into account in the implementation of sectoral strategies and programmes. Some (e.g. Austria, Canada) see it as necessary to include land issues among their concerns in their future cooperation with West Africa.

It clearly emerges that land issues cannot be addressed only as technical issues; they are critical to any strategy and programme aimed at fostering sustainable peace and development in Africa. Development partners seem intent on considering lessons that have been learned from past strategies and programmes to develop innovative intervention on land. Four areas of action are identified:

- i) Produce operational guidelines to foster coordination and cooperation among key actors involved in land issues in Africa.
- ii) Improve knowledge of local situations and develop context-specific reforms and implementation strategies, e.g. through partners' greater involvement in pilot initiatives and project implementation.
- iii) Facilitate dialogue between state and non-state actors to inform the process of developing a new land policy and legislation through stakeholders' consultation and participation.
- iv) Provide support to regional initiatives aimed at developing a policy and action framework on land building on information-sharing, exchange of experiences and lessons learned.

Below is a brief description of some initiatives developed by key international partners in support of land reform in West Africa building on the results of the survey and the review of available literature.

### ***3.1 France's experience in supporting the "Plan Foncier Rural" (PFR) Initiative***

During the 1990s, the French provided support to national land programmes in West Africa through an initiative called *Plan Foncier Rural* (PFR) or Rural Land Plan. It aimed to take stock of all existing rights in rural areas as they were perceived by various actors. The first plan was implemented in Côte d'Ivoire with which French cooperation was highly involved. The pilot phase ended in 1996. The consolidation and extension phases were carried out until 1999 in parallel with the development of the new Land Law (1998).

Plots were mapped at a scale of 1:10,000 while the different rights associated with these plots were listed and described. Considering that 98% of land in Côte d'Ivoire is under customary rule, the PFR approach sought to improve the formalisation of land rights. It also contributed to increasing knowledge of existing customary rights on the ground. The techniques used in the surveys were deemed as innovative and efficient; they still represent the reference for this type of intervention.

However, the PFR implementation in Côte d'Ivoire has encountered some difficulties that account for its ambiguous results. As Hubert Ouedraogo observes (2005), for a PFR process to help clarify rights, three conditions are to be met: a situation where land rights are confused; the interest of different stakeholders in clarifying their respective rights; the fact that stakeholders prioritise rights clarification to achieve their own personal interests even when conflicting interests prevail. Unless these three conditions are met, the PFR can exacerbate tensions rather than help successfully prevent or address them.

In the Ivorian case, the PFR process took place when the country was facing economic decline. Educated, unemployed youth left urban areas to return to rural areas<sup>70</sup> where tensions increased between youth, migrants and local land authorities around accessing natural resources. Existing land rights began to be contested. The Ivorian PRF put much emphasis on the technical aspects as opposed to the socio-political and legal aspects. This made its implementation difficult within such a delicate context. The Plan was sometimes used to crystallise tensions.

With French support (MFA and AFD) PFR were launched in Benin (1993) and Burkina Faso (1999). Several lessons have been learned from experiences gained in francophone countries. The PFR approach seems relevant to secure both individual and collective rights in situations where land division is already well advanced. However, its relevance seems unclear in the Sahel where pastoral zones can be highly diversified and land rights shared among a larger number of actors. Moreover as in the French example, even when support to PFR is strictly methodological, if land issues take a political turn any external involvement is highly scrutinized. Today, France is particularly cautious in offering direct support to land reform processes in the field. If land tenure projects have become the exception, land issues are still addressed through rural development programmes. French commitment to land issues has been reoriented towards support to research. Technical cooperation continues to be provided in Niger via French direct support to the Rural Code Secretariat (see section on Niger above, 3.4 and 3.5 below). French experts at the Secretariat play the role of focal point for other funding agencies and organisations.

### ***3.2 The Franco-British Initiative (FBI) to promote research and action on land***

Cooperation among OECD Member countries has been particularly successful in the research and advocacy on land reform. In 1995, the French and the British decided to join their efforts with a view to promoting cooperation between anglophone and francophone West African countries. Three programmes were launched concerning rural development. Each of them involved collaboration between French, British and West African partners; stakeholder consultation at the regional, national and local levels; result dissemination; exchange of lessons learned and experiences gained. These programmes have been jointly funded by British and French cooperation from 1996 to 2000. One specifically focused on access to land and natural resources. It allowed furthering the analysis of secondary rights to land access (e.g. for women, migrants and young people) and addressing the relations between local uses and governmental structures nationally and locally. It stressed that the diversity of contexts and land situations must be acknowledged in order to develop national land policies. It strongly purported a regional approach to land issues by identifying key issues and trends across West Africa. Finally, it suggested promoting regional exchanges on areas of common interest for West African actors and international partners.

The FBI demonstrated that long-term multidisciplinary technical support and partnership with West Africans can strengthen capacities of West African research institutions and development practitioners. It made it possible to start various long-term collaborations between West African, French and British specialists and experts on policy-oriented research.

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<sup>70</sup> See P. Richards and J.-P. Chauveau, forthcoming, op. cit.

### **3.3 Converting rights into livelihood opportunities: the DFID approach**

The UK's Department For International Development (DFID) has always had an interest in land issues in Africa. Today, DFID's aid modality is shifting focus from project to sector and budget support. Its current involvement in land reform initiatives in West Africa is country-led.

Several dimensions of DFID involvement in land reform and other land-related issues can be highlighted:

- i) A focus on livelihoods and particularly the recognition that "land policy reforms must recognise the changing role of land in livelihoods (as mediated by rapid rural-urban change, deagrarianisation and the macro-economic policy environment)";
- ii) A pro-poor approach to land issues;
- iii) The recognition that long-term commitment and support are required;
- iv) The involvement of customary systems in land reform as well as in Alternative Dispute Resolution (ADR) mechanisms to resolve conflicts.

Within DFID, the 'sustainable livelihoods' approach to development emerged in the late 1990s, highlighting the importance of land rights to poor people's livelihoods.<sup>71</sup> The Agency itself has acknowledged that its initial approach did not focus enough on the power relationships that maintain inequalities in the possession of those rights, nor on the social, economic and political transformation processes that might enable poor people to generate more income from land, a sign of its interest to further deepen the understanding of the links between land issues and livelihoods. Yet, an emerging 'rights-based' approach focused at the same time on issues of power, and shifting attention from technical to political understandings of development.<sup>72</sup>

In the 2002 Draft Land Policy, DFID made an attempt to bring these two approaches together, although it retained a sectoral focus.<sup>73</sup> Currently, the 'growth-led' approach to development, with its central role for agriculture, requires DFID's continuing involvement with land. As DFID moves forward with its new agricultural strategy, there have been discussions as regards its broader policy objective and how to best approach land issues based on past experiences, incorporating the lessons from academic / consultative research, as well as other initiatives undertaken by African organisations (CAADP, AU, etc.). Other bilateral agencies such as USAID have followed DFID's lead with respect to the livelihood approach, incorporating this approach in their own policy / analysis of land issues.<sup>74</sup>

### **3.4 Addressing NRM and conflict issues: the case of Germany-Niger bilateral cooperation**

During the last twenty-five years, Germany has placed great emphasis on NRM and conflict issues in its cooperation with West African countries. Its focus, objectives and approach are well exemplified by the case of bilateral cooperation with Niger. Implemented through GTZ, Germany-Niger cooperation on land revolves around three long-term projects:

- The PASP (*Projet de Protection intégrée des ressources agro-sylvo-pastorales dans la région de Tillabéri-Nord*) focuses on natural resources, agriculture, silviculture and pastoralism.
- The PDRT (*Projet de Développement Rural de Tahoua*) covers natural resource management in the field of anti-erosion measures, agricultural extension and community resource management.
- The Poverty Reduction Programme in Tillabéri and Tahoua Nord (LUCOP) aims to foster natural resource decentralised governance.

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<sup>71</sup> Carney 1998; Moser 1998; Scoones 1998; Ellis 2000.

<sup>72</sup> Moser and Norton 2001.

<sup>73</sup> DFID 2003; Quan 2003.

<sup>74</sup> USAID 2005.

All these programmes seek to improve participation and communication among actors; render land-use actors responsible for natural resource management and planning; develop consensual local rules and strengthen institutional mechanisms. They specifically address land-related conflict in which the experience of local agreement (*convention local*) should be noted. There is evidence that conflict intensity lessens when written consensual rules are agreed upon and validated by local authorities. Currently, attempts are being made to duplicate these experiences elsewhere although they have not yet reached the necessary critical mass to produce positive outcomes on a larger scale. The ongoing institutional reform process is lengthy and the debate is not closed on how to legally acknowledge agreements reached at the local level. Moreover, it is difficult for nomadic, transhumant and illiterate actors to participate.

Several lessons have been learned from these programmes in Niger as well as from German support to the Praia Process implementation in collaboration with the CILSS (see 1.3 above). Firstly, it is important that development partners guarantee their long-term commitment for sustainable behavioural change to take place. Secondly, involving mobile actors in the planning and implementation of village activities remains a delicate and difficult task which should be given priority for conflict related to natural resources to be reduced in rural areas. Thirdly, full implementation still represents a challenge particularly for regional and national programmes to go beyond political statements and declarations (i.e. Praia +9 Declaration). Regional institutions such as the CILSS, ECOWAS and the WAEMU and development partners could play a useful supporting role in this process. Their value added would consist in providing a framework for discussion and the necessary technical and financial means to enable information capitalisation, management and dissemination as well as to promote dialogue within and across West African countries.

### ***3.5 A focus on pastoralism: Swiss cooperation in Niger***

Natural resource management and conflict management and resolution are among Switzerland's main areas of work in West Africa, particularly in the Sahel. Within this framework, it is worth mentioning the Swiss-funded programme to secure livestock mobility and pastoral use of natural resources and areas in Niger. Like other ongoing initiatives in that country, the Niger's Rural Code Secretariat is responsible for the overall programme's implementation and technical follow-up. Swiss cooperation is represented in the Rural Code Steering Committee. It attends various national workshops and facilitates informal local debate through its different programmes in the field.

Started in 2003, the programme aims to develop supplementary texts to the Rural Code that address pastoralism's needs and specificities in rural areas as well as to facilitate dispute resolution among users, etc. Its approach is based on reaching consensual decisions on these issues through dialogue, exchange of experience and capacity building at the national level. So far, the programme has enabled greater involvement of pastoralist associations in the national debate through an effective participatory process. Pastoralists' expectations are high on livestock prospects in Niger, its contribution to economic development, the acknowledgment of the pastoralism way of life and place in society. The challenge ahead is to respond to the expectations raised by the Niger Rural Code exercise by accelerating the pace of its implementation and expanding its coverage to the entire country. For this to be possible, information sharing and equipment are essential. Capacity building is also strongly needed.

### ***3.6 USAID: Raising practitioners and decision-makers' awareness on conflict-livelihood links***

In recent years, USAID has increased the focus of its work on conflict, emerging from conflict countries and fragile states in West Africa. It has also worked toward integrating a conflict prevention dimension in all of its programmes. Thus, a series of toolkits have been issued which deal with how development assistance can address key risk factors associated with conflict concerning land, natural resources and livelihoods.<sup>75</sup> The toolkits are targeted for development practitioners in the field and provide four types of

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<sup>75</sup> USAID 2005.

information on: 1) the links between conflict and livelihoods; 2) lessons on developing livelihood programmes; 3) programme options designed to moderate livelihood vulnerability, improve resiliency and help people manage conflict-related shocks; 4) relevant USAID mechanisms, implementing partners, contacts, etc.

USAID has also been involved in the FRAME programme which has two objectives: 1) build knowledge-sharing networks of NRM professionals; and 2) help practitioners and decision-makers make greater use of existing knowledge on successful NRM experiences.<sup>76</sup> Additionally, USAID has created the Land Resources Management Team, a new entity established within the Economic Growth, Agriculture and Trade Bureau Office of Natural Resources Management, that provides technical, analytical, and project assistance to promote the development of land administration and management systems that improve or conserve the quality of these resources while also providing opportunities for increased household and community incomes.

### ***3.7 The World Bank polarises the debate on land property rights***

The World Bank is one of the major players that contributes to shaping the land reform agenda in developing countries. It has often polarised the international debate on land issues. Some agencies and organisations have rallied behind its position whereas others have defined their own in opposition to that of the World Bank.

The Bank's work on land focuses on the strategic and operational levels. The Bank is also involved in capacity building as the WBI (World Bank Institute) provides training on land issues for poverty reduction.<sup>77</sup> Some training, especially designed for francophone Africa, receives financial support from France.<sup>78</sup> As regards the research and advocacy work, integrating gender issues in land administration projects and policies is emphasised.<sup>79</sup>

In 2002-2003, the Bank carried out an important consultation process on land policy thus providing the opportunity to relaunch the land debate in Africa.<sup>80</sup> It culminated with the publication of *Land Policies for Growth and Poverty Reduction*<sup>81</sup> which acknowledges individual and collective property rights and highlights their economic importance. It underscores that access and rights security is essential especially for the vulnerable population. For instance, it suggests that communities should be entitled to restrict the alienation of land rights outside the group to protect those who have secondary rights, in particular. The paper focuses on land transactions, the functioning of rural land markets and proposes to develop further rental markets to improve access to users for all categories. The report reviews the different historical, conceptual and legal contexts of land property rights in order to recognise the complexity of land issues and their key social values. Finally, it analyses the government's scope and role in establishing policy frameworks that maximise social benefits and discusses the land policy formation process.

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<sup>76</sup> [http://www.frameweb.org/ev\\_en.php](http://www.frameweb.org/ev_en.php).

<sup>77</sup> For example, the link between land tenure security and access to income and assets; the functioning of rural land markets and their effects on efficiency and poverty; land tenure approaches and rural poverty, etc. The training is also intended to offer to different policy-makers and stakeholders tools to develop national land policies and administration systems.

<sup>78</sup> See [Courses on Land Policy for Growth and Poverty Reduction](#). Benin, Burkina Faso, Côte d'Ivoire, Mauritania and Senegal participated in the first cycle of videoconference training in 2004.

<sup>79</sup> See: [Gender Issues and Best Practices in Land Administration Projects](#).

<sup>80</sup> i.e. the Policy Research Report (PRR) on land issues. The last consultation dated back to 1975 when the World Bank prepared a land reform policy paper. The Bank did so out of recognition that land is a powerful weapon with which to fight poverty because it is often the only asset that the rural poor possess and a primary means of livelihoods in rural areas. The 1975 paper set out a conceptual framework to address land issues and paved the way for increased Bank assistance for land-related activities ranging from reform policies and legal frameworks to supporting land titling and administration.

<sup>81</sup> Deininger, 2003.

The report, which is the result of a wide consultation process, has been well-received globally. It reflects the Bank's evolving understanding of land issues, particularly in Africa which at times had been criticised for the exclusive priority attached to property rights and formalisation. In reviewing the Bank's past approach and integrating available lessons learned, the World Bank's Policy Research Report on land issues can be considered as a turning point as well as the illustration of renewed interest in land issues within the World Bank Group.

The World Bank also addresses land issues in the larger context of agriculture, food security, natural resource management and land degradation projects and initiatives. Indeed, in recent years conflict in relation to land issues in West Africa has been examined through these themes as they are more neutral in relation to this sensitive issue. Furthermore, the international context, through the MDGs and other commitments to reduce poverty, has been particularly welcoming of increased investments to reduce land degradation in Africa, particularly through [the GEF](#) (Global Environment Facility) of which the World Bank is one of the three implementing agencies, and now with the multi-partner platform [TerrAfrica](#).

In West Africa, the Bank's core experience in land tenure reform issues is in Côte d'Ivoire and Ghana, i.e. the Rural Land Management and Community Infrastructure Development Project in Cote d'Ivoire and the Land Administration Project in Ghana (see the relevant section in part II above and 3.8 below).

### ***3.8 The Land Administration Project in Ghana: A multi-donor initiative***

Land issues in Ghana have received remarkable attention through the Land Administration Project (LAP) in which the World Bank, the FAO, CIDA, NDF, DFID, KFW and GTZ participate. Each donor provides a specific contribution to the LAP's implementation; for example, DFID supports the establishment of Customary Land Secretariats. Overall, the LAP aims "to stimulate economic development, reduce poverty and promote social stability by improving security of land tenure, simplifying the process for accessing land and making it fair, transparent and efficient, developing the land market and fostering prudent land management."

The programme was intended to be the first step towards the adoption of the National Land Policy.<sup>82</sup> Therefore a comprehensive fifteen-year Land Administration Programme was foreseen in three phases. However, difficulties in identifying the Programme's long-term goals led to the decision to make the LAP a pilot project followed by a ten-year programme.

The LAP includes the following four components:

- i) **Harmonise land policy and regulatory framework for land administration:** review policies, laws and regulations; strengthen civil courts to expedite case resolution and develop alternative mechanisms to resolve land related disputes; take stock of all acquired state lands and define outstanding compensation.
- ii) **Institutional reform and development:** restructure public sector land agencies; decentralise and strengthen land administration services; support customary land administration; reinforce private land sector institutions; strengthen land administration, management training and research institutions.
- iii) **Improve land titling, registration, valuation and information systems:** develop the cadastre and information systems; cadastral mapping; establish model land titling and registration offices; improve deed and title registration; land use planning and management; establish a land valuation database; pilot demarcation and registration of allodial land boundaries; pilot systematic land titling and registration.
- iv) **Project management, monitoring and evaluation:** project coordination and management; human resources development; communication strategy; and monitor, evaluation and impact assessment.

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<sup>82</sup> The Land Policy was adopted in June 1999. See section on Ghana in part II.

The programme began in October 2003 and initial assessments have highlighted encouraging results in terms of capacity building and some improvements in producing expected outputs. On the other hand, the tasks of managing and coordinating its overall implementation have proven to be difficult due to the programme's dimensions and objectives. Shortcomings have also been identified in the implementation of the communication and consultation components. Keeping all stakeholders consistently committed throughout the process remains an issue.

### ***3.9 The FAO: addressing land issues in conflict situations***

The FAO has a long history of involvement in land issues and conflict. The FAO's Land Tenure Service (FAO/LTS) has been providing a critical mass of interdisciplinary expertise on land tenure issues of broader reach. The LTS' work focuses on advising development partners and facilitating knowledge-sharing. In the field, the FAO works in collaboration, partnership and alliance with many actors and organisations, preferably with a regional perspective. It also works with national governments and civil society organisations.

The FAO involvement in land issues includes the following four areas of action:

- i) Improve land access and security particularly in transitional contexts (e.g. in Liberia and Sierra Leone or in situations of conflict between farmers and herders in Sahel countries such as Burkina Faso and Niger);
- ii) Strengthen security of rights to promote accessibility, affordability, fair and equitably-based practices and institutions (e.g. Outgrower schemes in Ghana; Country Agricultural and Rural Development strategies in Mali and Sierra Leone);
- iii) Reinforce decentralised practices of land access and management (e.g. in Ghana and Burkina Faso)
- iv) Strengthen sustainable land administration systems and processes (ex. the LAP in Ghana).

Building on its long-term experience particularly in conflict and emerging from conflict situations in Angola, Liberia, Mozambique and Sudan, the FAO has devised key principles of intervention on land issues. The overarching objectives consist of adopting an approach that is not too intrusive for improvements are sustainable only with ownership and participation. Other objectives are: i) to combine quick responses and long-term commitments; ii) seek gradual evolution working with existing frameworks towards incremental improvement and institutional strengthening; iii) to explore synergies (adaptation vs. replacement); iv) implement land tenure interventions in support of livelihood strategies; v) to develop tailored and context-specific actions; vi) to promote legality, legitimacy and effective local authorities through statutory provisions and local customs; vii) see crisis as an opportunity to address underlying difficult issues, i.e. women's rights, urbanisation, local planning, etc. In 2006-2009 these objectives will be examined in three main areas of work: emergency and post-emergency land tenure; good governance in land administration; and methodologies for accessible and affordable land security.

The FAO actively supports the AU/AfDB/UNECA process and other regional initiatives (e.g. Praia Process) because they have the potential to provide high-visibility and greater impact on the debate on critical land issues (i.e. land access and security, decentralised land administration systems, etc.) providing also a more neutral space for discussion and exchanges (for example, via study tour visits or mutual learning-training).

### ***3.10 A more active role for the European Union on land issues in developing countries***

In promoting the land agenda, the European Union has been playing an increasingly important role because it has moved away from only funding research and advocacy projects (e.g. "Changes in Land Access, Institutions and Markets in West Africa" – CLAIMS network) to becoming a forum for coordination with a clear approach to handling land-related issues.

In January 2002, the EU created a Task Force on Land Tenure to carry out broad consultations with a view to developing Land Policy Guidelines (November 2004).<sup>83</sup> These guidelines focus on how the EU can improve member countries' contribution to addressing land problems as well as how they may assist developing countries in: (i) formulating a 'multi-sector' approach to land tenure rights, economic development, poverty reduction and good governance; (ii) creating a policy framework for land tenure reform that involves the state, civil society and research and development networks; and (iii) determining the implications of this framework for development partners and agencies. The first section of the Guidelines identifies the links between land and other major policy areas, e.g. agricultural development and taxation. The second part outlines key principles for designing successful land policies and the contribution external partners may provide.

The EU is expected to play a greater role in land-related issues. This will certainly be the case if France, Germany and the UK (the most involved and experienced bi-lateral partners), after working together on the Land Tenure Task Force, use the guidelines to create joint actions and policies.

### ***3.11 A new role for UNDP***

UNDP did not always address land issues because it sometimes lacked the relevant technical capacities and tended to view these issues as too politically sensitive. However, UNDP has always acknowledged the essential role land plays in livelihoods, peace, human security, governance and sustainable development, all key areas of UNDP work. Its work on land has therefore focused on projects dealing with land degradation and desertification through the [United Nations Convention to Combat Desertification](#) and the [Drylands Development Centre](#). Both examine land issues related to land degradation and conflict in drylands areas. They are involved in advocacy / research work as well as specific projects.

At present, UNDP is exploring the contribution it could make to address land issues more directly. It collaborates with, among others, the International Land Coalition, FAO, UN-HABITAT and IFAD to identify where its action could add most value. Through consultation, it has emerged that UNDP may play a critical role in both mainstreaming land rights into development and advocating for land tenure reform processes. The PRSP and MDG processes offer concrete opportunities to pursue these objectives.

UNDP operates at two levels: at the continental level, it contributes to the development of the African Union land policy framework (through the AU/AfDB/UNECA Process). Nationally, UNDP co-facilitates pilot exercises (e.g. in Benin), supports civil society organisations' land related activities, and lobbies for the inclusion of land tenure reform issues in ongoing policy debates. It also provides support to ongoing reform processes in order to enable wider participation especially of vulnerable actors. To implement this work in Africa and elsewhere, UNDP works with the newly established [High Level Commission on Legal Empowerment of the Poor](#)<sup>84</sup> and the [UNDP Governance Centre](#).

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<sup>83</sup> The Task Force aimed to: contribute to the World Bank's three-year research and consultation process (see above); and formulate 'EU Land Policy Guidelines' to support, through the European Commission and Member States' bilateral programmes, the design of land policy reform processes in developing countries. See: <http://www.landcoalition.org/pdf/euconfirpt.pdf>

<sup>84</sup> The Commission is mandated to explore ways for the poor to secure broader access to legal, fungible property rights for their assets.

## **IV. EMERGING ISSUES AND QUESTIONS**

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The following issues and questions emerge from this review of regional, national and international initiatives on land reform in West Africa.

There is general acceptance of the need to reform land tenure systems across West Africa. However, it has been difficult to pursue land reforms within the broader framework of agricultural policies at the national and regional levels. Many divergent, communitarian interests appear at the national and local levels when trying to address existing land regimes that can heighten tension and at times trigger violence. *Is it possible to develop a regional vision in such a context and what could be its value added? Who are the most active supporters of the land reform agenda in West Africa? What room for manoeuvre do they have in the medium term?*

- Reform processes tend to be long and involve a wide range of actors. The challenge is to integrate different authorities at various levels throughout the process. Drafting clear land policy documents through a participatory approach is increasingly considered as an appropriate way to develop successful land reforms, linked with the long-term commitment of most governments to reduce poverty and in line with the objective of economic growth. *How might lessons learned from stakeholders' participation in national land policy formulation processes be used to facilitate regional consultation? What necessary steps should be taken to successfully incorporate land issues in MDG and PRSP processes?*
- Recognition of customary land rights and the survival of state land monopoly are still key issues that need to be properly addressed by land reform processes in most West African countries. Legal pluralism in Africa (i.e. co-existence of customary, Islamic and statutory arrangements) renders land tenure more complex. Past reforms pointed out the problem with replacing legal pluralism and the need to accommodate the complexity in any new reform. *How can the complexity in current and future reforms be managed? What kind of lessons can be drawn from external reforms for such a process?*
- Decentralisation of land management is seen as a promising perspective to strengthen land tenure security and prevent land-related conflicts in rural areas. However the extent to which West African governments are willing to effectively transfer powers and resources to local governments remains unclear. It is acknowledged that decentralisation does not represent a solution to all problems on the ground. The risk of abuse of power and authority is great at every level. Power relations exist across levels of governance. Despite their relevance to the success of land reform, they are often under emphasised. *What approaches and tools have been devised to guarantee inclusion and equity in land reform at the local level? Are there any regional lessons that could inform ongoing national processes?*
- Privatisation of land and land allocation to agri-business are likely to increase over the medium-term. This situation has raised discontent among family farmers – the majority of farmers in the region – and increased their sense of vulnerability. Under certain conditions, this can contribute to political instability. *What policy options and interventions are best suited to promote complementarity rather than opposition between agri-business and family farming in West Africa?*
- Competition for land, exacerbated by demographic growth and migration, the dynamics of conflict in the region, the process of agricultural transformation and agrarian change, are of great concern for both national and regional institutions. Deepening the understanding of the relationship between land, agricultural transformation and conflict at all levels is seen as fundamental to improving human security in the region. *From the comparative analysis of the interactions between land, agricultural change and conflict issues in Côte d'Ivoire, Liberia and Sierra Leone, what regional trends emerge? How might regional organisations such as ECOWAS, the CILSS and the WAEMU contribute to promoting land access security for vulnerable user groups in emerging from conflict contexts?*

- The land issue is more often approached separately without taking into account its link with other natural resources. For example, large and small watercourse planning raises property value, competition and conflict. Many shared watercourses exist for which planning for agricultural development will increase the risks of national or regional conflicts around land. *How can this aspect be better taken into account in strategic thinking on policies and land reform?*
- West African regional organisations have been pioneers in advocating for a regional land agenda. They have made significant progress in setting an agenda for land reform under the CILSS' leadership. They have launched a debate on the reform's core goals, and priority actions in consultation with regional stakeholders. However, it is unclear how far local stakeholders are involved in this process, how long it will take to implement this agenda in the coming years and how it will be done. The legitimacy of regional organisations to address land issues is questioned by some stakeholders. *What are the opportunities and constraints for the CILSS, in partnership with ECOWAS and the WAEMU, to implement the Praia+9 Declaration in the coming years? How can the regional and continental initiatives such as the AfDB/AU/UNECA process be articulated so as to foster complementarity and increased impact? What regional trends in land issues have emerged in West Africa that could be useful to inform analysis and action elsewhere?*
- Given the high sensitivity of the land tenure issue for national governments, West Africa's land reforms have not taken into account the cross-border or the regional dimensions of land management, access and use. They also have not adequately addressed demographic issues and historic patterns of mobility to farm and use natural resources in the context of progress of sub regional integration. Such reforms have not attained the expected results, largely because they have not been fully implemented. Their application has also had a number of intended and unintended consequences with regards to security of tenure for specific groups. *What cross-border management experiences related to common property resources exist in West Africa? What are the advantages and disadvantages of integrating land issues in the ongoing regional debate on free movement of people in West Africa?*
- Although attempts have been made to address land reform issues at the national and the regional levels, no work has yet been done to assess the appropriate degree of subsidiarity between regional, national and local land regimes and policies. *How can issues of subsidiarity and diversity of land tenure systems and contexts be fully recognised and intrinsic to land access analysis and frameworks for action?*
- Many development partners express a growing interest in integrating land issues in their overall strategies toward sustainable development and security for all in Africa. There is awareness on the limits and opportunities associated with ongoing intervention on land issues. *What new tools would be needed in order to increase the relevance of support to the land reform process?*

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<a href="http://www.cilss.bf">http://www.cilss.bf</a>
<b>Claims West Africa</b>
<a href="http://www.inco-claims.org/">http://www.inco-claims.org/</a>
<b>ECOWAS</b>
<a href="http://www.ecowas.int">http://www.ecowas.int</a>
<b>FAO</b>
<a href="http://www.fao.org">http://www.fao.org</a> and <a href="http://www.fao.org/sd/in1_en.htm">http://www.fao.org/sd/in1_en.htm</a>
<b>FRAME Initiative</b>
<a href="http://www.framework.org/ev02.php?ID=1_201&amp;ID2=DO_ROOT">http://www.framework.org/ev02.php?ID=1_201&amp;ID2=DO_ROOT</a>
<b>Global Environmental Facility</b>
<a href="http://www.thegef.org/">http://www.thegef.org/</a>
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<a href="http://legalempowerment.undp.org/">http://legalempowerment.undp.org/</a>
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<a href="http://www.mpl.ird.fr/">http://www.mpl.ird.fr/</a> <a href="http://www.bondy.ird.fr/pleins_textes/">http://www.bondy.ird.fr/pleins_textes/</a> <a href="http://www.mpl.ird.fr/ur095/resultats/TDUR.htm">http://www.mpl.ird.fr/ur095/resultats/TDUR.htm</a> (Database)
<b>Institute of Liberty and Democracy</b>
<a href="http://www.ild.org.pe/">http://www.ild.org.pe/</a>
<b>International Land Coalition</b>
<a href="http://www.landcoalition.org/index.htm">http://www.landcoalition.org/index.htm</a>
<b>Land Research Action Network</b>
<a href="http://www.landaction.org">http://www.landaction.org</a>
<b>Land Tenure Center – Wisconsin University</b>
<a href="http://www.ies.wisc.edu/ltc/">http://www.ies.wisc.edu/ltc/</a>
<b>OXFAM – Land rights in Africa</b>
<a href="http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/index.htm">http://www.oxfam.org.uk/what_we_do/issues/livelihoods/landrights/index.htm</a>
<b>PDM database on decentralisation</b>
<a href="http://www.pdm-net.org/Newsite/french/pdm/programmes/poldec/legislation.htm">http://www.pdm-net.org/Newsite/french/pdm/programmes/poldec/legislation.htm</a>
<b>TerrAfrica</b>
<a href="http://www.terrafrica.org/">http://www.terrafrica.org/</a>
<b>United Nations Convention to Combat Desertification</b>
<a href="http://www.unccd.int/">http://www.unccd.int/</a>
<b>Programme for Land and Agrarian Studies, University of Western Cape</b>
<a href="http://www.uwc.ac.za/plaas/">http://www.uwc.ac.za/plaas/</a>
<b>UNDP Drylands Development Centre</b>
<a href="http://www.undp.org/drylands/">http://www.undp.org/drylands/</a>
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