



Formalizing rights and responsibilities

Conférence sur les politiques foncières - LPI
Addis Abeba, 11-14 novembre 2014

FINANCÉ ET
PILOTÉ PAR :



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Professionnels du
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What does the committee do?

- The 'Land Tenure and Development' Technical Committee is a working group created by the French Cooperation in 1996 **to discuss rural and urban land issues** in developing countries across Africa, Asia and Latin America.
- It operates under the auspices of **the Ministry of Foreign Affairs and International Development (MAEDI) and the French Development Agency (AFD).**



What is the committee?

- Its members are from the main french institutions of research, teaching, expertise and cooperation working on land. The committee works in partnership with a network of national and international actors.
- They come from different areas of research (agronomy, law, economics, sociology, anthropology and political science) and expertise (researchers, academics, expert, civil society members, development practitioners).
- This diversity is an important component of the Committee

What is its mission?

- **To support the formulation and implementation of land policies** that effectively address key land issues in developing countries (promoting equitable access to land and functional land management mechanisms).
- **To increase recognition of the multiplicity of land rights** and the need for **multi-actor dialogue** around land issues.
- **To stimulate debate and inform thinking** and actions by land policy actors and their partners in different countries and continents.

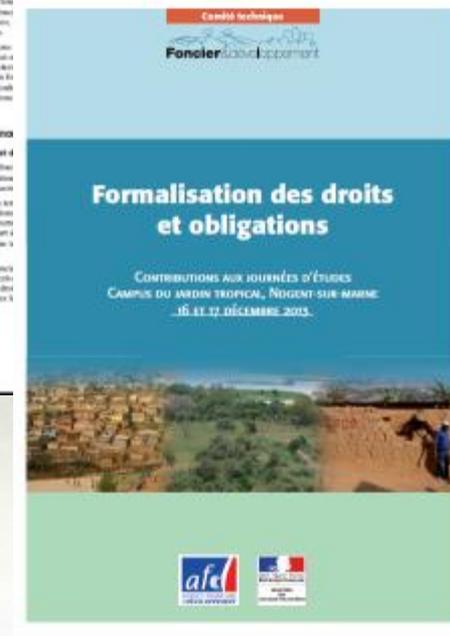


Formalising frameworks for land-related analysis and action

- Facilitating multi-actor reflection in two main areas:
 - **Formalising rights and responsibilities:** analysing the tools, benefits, risks and shortcomings of policies to formalise rights, and their implications for security of tenure.
 - **Transparency and contract negotiations:** providing a framework for ex-ante analysis, and training materials to assess the quality of previous agreements for agro-industrial projects that affect local land rights

A process in several steps

1. **A concept note to articulate the debate**
written by Alain Durand Lasserre with the help of the committee members
2. **A call for proposal that gathered more than 30 papers**
 - *case studies* (South Africa, Burkina Faso, Cameroon, China, Ivorian Cost, Ghana, Haïti, Kenya, Madagascar, Mali, Mexico, Rwanda, Sénégal, Tanzania, Vietnam),
 - *broader contextualization* from particular approaches (disciplinary, sectorial, professionnels, etc.)





3. **Workshop organized December 16th and 17th 2013**

More than 50 participants (researchers, experts, professionals, etc.) from Europe, Africa, Asia and Latin America to debate and share experiments

4. **A presentation at the French MOFA December 20th**

open to french cooperation officers working on land and to our european partners



An aerial photograph of a rural landscape. In the foreground, a large, flat, green field is visible, with a few small figures of people standing in the distance. The middle ground shows a cluster of buildings, likely a village or small town, surrounded by more fields and trees. The background consists of rolling hills and mountains under a hazy sky. The overall scene is a typical rural setting.

**1. Conclusions and
recommendations on
formalization policies and land
rights**

Main findings and key messages

- Policies of land rights formalization may **contribute to economic development and social peace**. However, the experience shows that they are complex to implement and that failures are important. Risks of negative effects should not be neglected.
- Formalization **cannot be considered as a panacea with all qualities in itself**. Its success depends on **other policies** or other actions in different sectors. **There is no mechanical link between** formalization, land tenure security, social peace or economic development.
- There are several ways of formalizing land rights. Their relevancy depends on local conditions.
- **It's not a critic of the relevancy of formalization policies per se, but a critical analysis on the conditions (political, economic, institutional, technical, etc) necessary for them to be effective.**

- **Standard approaches** (systematic, massive, only focused on the individual private property) poses **problems**
 - They can only exclude or break up **agricultural and pastoral production systems** that do not rely on de facto private property (dualism, inaccessibility, etc.)
 - Land administration doesn't have the capacity to implement these land policies in a transparent, efficient and sustainable way
- **“Alternative approaches”** allowed to design innovative tools and to **create new opportunities**, but:
 - Those that are in line with the cadastral approach don't totally escape from the biases regarding property and systematization. The consideration of complex land rights is often problematic
 - Those that focus on land governance are complex to implement, focus on the “stocks” of rights and suppose strong institutional innovations that are not always met
- Land rights formalization deserve a particular attention
 - *The relevance of policies and the process of their implementation depends on the local context and are a choice of society.*
 - *To succeed with a formalization policy suppose a set of parameters that are not given and that need to be gathered.*

- There is no « miracle recipe » or “one size” model
 - Decide on formalization policies suppose **initial thinking and debates** on society projects they want to reach (and those who are targeted), on the opportunity to formalize, on its implementation process and the potential alternatives.
 - These debates can not only rely only on the State or on experts. Because of the societal stakes, these debates should include all stakeholders and rely on well informed diagnosis.
 - **The elaboration of a concensus among all stakeholders should be taken seriously.** The success of the policies is at stake. This should be a prerequisite to significant fielwork operations
 - Once the policy designed, its implementation suppose an operational strategy taking into account that the principal stake is to build a land governance and administration reliable and sustainable. **The formalization of land rights is a way, not an objective per se.**

Necessary conditions for a public debate on land rights formalization policies

- **Open up the reflection:** debates are too often blocked because of semantic problems, the existence of strong category interests, the existence of normative conceptions, etc. that limit them to the mainstream reasoning. An important educational work is necessary to unravel the misunderstandings and clichés.
- **Evidence-based policies:** at first it's important to define the problem before thinking about the solutions. This implies to rely on reliable data documenting the reality of land tenure insecurity, the existing offer of formalization and its limits, etc.
- **Include all stakeholders,** in particular different category of people and strategic actors. This suppose a well organized approach, and support to non-state actors for an informed debate.
- **Take the time** to establish the necessary conditions for an inclusive dialogue that doesn't exclude anybody, that is not exploited, and that allows all stakeholders to have the same understanding of the challenges at stake and appropriate solutions.

Few principles for an effective, inclusive and sustainable formalization

- **Propose a diversified, but articulated offer** going from the local recognizing of non-formalized rights to the delivery of titles. Propose a broad panel that responds to the needs of different land user categories.
- **Promote flexible and affordable local systems:** rely on intermediary governance levels (villages, neighborhoods, etc.), imagine flexible device allowing the consideration of local specificities, use new technologies for purpose, rely on locally existing human resources and knowledge.
- **Build up land regulatory institutions taking into account the plurality of norms:** the plurality of norms is a long-term reality. Their regulation by hybrid and accessible institutions is at the core of land rights security.
- **Adopt a principle of progressivity** : the systematic formalization must be reserved for specific areas. Test periods along with monitoring and evaluation independent systems are necessary before operating the “scaling up” phase.

Implication for cooperation and international aid

- When the public debate is blocked, **support the set up of multi-actor networks and exchange platforms** to help the debate and raise the idea of a reform.
- **Consider political concensus on the objectives of the reform and its approach a compulsory parameter** for financing formalization operations and be careful that all stakeholders are involved.
- **Change the timeframe of international support to make them long term engagement**
- **Consider seriously the land governance challenges** and integrate the question of institutional set up in international aid
- **Finance independent methodology of monitoring and assesment**

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The screenshot displays the homepage of the 'Portail Foncier & Développement' website. At the top, there is a navigation bar with the site's logo and the text 'Portail Foncier & Développement'. Below the logo are four circular icons representing 'THÈMES', 'PAYS', 'ACTEURS', and 'ACTUALITÉS', followed by links for 'OUTILS' and 'QUI SOMMES-NOUS ?'. The main content area is divided into several sections: a 'FOCUS' section on the left featuring a photograph of a meeting and the title 'Journées d'études du Comité technique « Foncier & Développement »'; a central 'L'ACTU DU FONCIER' section with a list of 'Nouvelles publications' and 'Revue de presse'; and a 'Comité technique' section on the right with a search bar, a subscription button, and an 'AGENDA' listing events like 'Journée eau et foncier' and 'Journée sur le foncier pastoral'. At the bottom left, a grid of logos represents various partner organizations such as AFD, UEMOA, IRD, aGter, CNRS, IGRED, and CIRAD.

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Journée eau et foncier
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