Coordination SUD
Solidarité Urgence Développement

C2A Notes

What land policies should be promoted in order to make family farming in Africa more secure[1]?

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In today's context of mounting pressure on land and natural resources, the formalization (legal and written recognition) of land rights is presented as a way to promote better land security. It is implemented in the framework of land reforms that are consistent to a greater or lesser degree with the principles underpinning international conventions such as the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests, defined by the World Food Security Committee in May 2012 after broad consultations with representatives of civil society. What conclusions can be drawn on these ongoing reforms? Do they really make it possible to secure the land rights of family farmers? Apart from declarations of intent, what concrete measures can donors take today to effectively support equitable access to land and natural resources, and to incentivize States to promote policies that do likewise?

4 basic principles to promote more inclusive land policies

Les most recent reports of the Technical Committee for "Land and Development"2 show that, despite some progress having been made, contemporary land policies cannot provide enough security today for family farmers. Yet these farmers produce over 70% of the world's food, provide over 60% of jobs in the least developed countries, and are the guarantors of the widest range of plant and animal biodiversity. That is why the members of the C2A call on international donors to apply at least 4 criteria to their funding in support of land reforms: 1/ the organization of broad, informed public debates involving civil society; 2/ the broadening of the offer of security so that it takes into account the social and land realities of family farmers; 3/ the regulation of private and public investments; and 4/ the creation of an institutional and economic environment that supports family farmers' investments.

Key characteristics of contemporary land policies

Discrepancies between national legislation and local practices

As a means to control territories, the colonial powers used civil law to develop a conception of land ownership that was exclusive and private (land registration system[2]), and that totally invalidated existing customary rights and State monopolies. In this logic of "top-down creation of ownership", existing land rights were abolished or transformed into simple use rights, as private ownership was reserved for the settlers, the State and its clients. In common law countries, customary authorities were granted greater recognition by national law-makers, but very often their rights to manage land were considered to be absolute ownership rights. There too, complex systems of management of local rights were replaced by a form of private appropriation that introduced profound changes in the former land management system.

y explain States' inability to ensure that these At the time of independence, certain States (e.g. Togo and Côte d'Ivoire) maintained colonial arrangements in the name of modernization, whereas others attempted reforms to reduce inequalities in access to land and its resources (e.g. Senegal and Burkina Faso). In all cases, only

[1] This brief is based on a process of capitalization of reforms underway in West Africa and Madagascar. Although the political, socio-economic and institutional configurations vary on the rest of the continent, we find the same problems of effectiveness of land policies as in West Africa and Madagascar. The conclusions drawn in this brief therefore apply to the entire African continent, and can provide useful lessons for other regions of the world, especially South-East Asia, where the principle of recognition of the local rights of ethnic minorities and family farmers is far from being secured.

[2] See, in particular, *La formalisation des droits dans les pays du Sud* and *Le guide d'analyse ex-ante des projets agricoles à emprises foncières*

[3] For further information on the registration system, see Hubert Ouedraogo, Mythes et impasses de l'immatriculation foncière et nécessité d'approches alternatives, Comité technique « Foncier et développement », AFD, MAEDI, Paris, 2011. http://www.foncier-developpement.fr/publication/mythes-impasses-de-limmatriculation-fonciere-et-necessite-dapproches-alternatives/

a tiny portion of the countries' territory was registered, and local populations continued to refer to customary regulations, and to function with local land arrangements. These inconsistencies between local practices and national legislation, as well as the complexity of procedures of access to ownership, were instrumentalized to a large extent by the incumbent elite, and partially explain States' inability to ensure that these laws were applied.

This failure stemmed not only from a lack of resources; it also reflected the absence of political will or the difficulties to challenge the existing power relations, which created the more or less explicit exclusion of certain parts of the population from access to resources. For decades, the ineffectiveness of land rights and the abuse of power that it allowed were not addressed in international debate. The neoliberal turn in the 1990s put an explosive issue on the agenda, which was to be one of the triggers of many political crises across the continent (Rwanda, Côte d'Ivoire, Kenya, etc.).

Rapidly-evolving contexts and unprecedented challenges

Contemporary land policies are set in rapidly evolving contexts. Demographic growth in Africa is one of the steepest in the world, and the continent is one of the most vulnerable to climate change. New democracies in the 1990s and the intention to gradually decentralize have now materialized in the creation and reinforcement of competencies transferred to new regional authorities headed by elected representatives. These authorities are set to play a decisive role in the economic development and sustainable management of their territories, but often without adequate financial resources. As regards land management, the decentralization processes have paradoxically moved decision centres further away from the population. There has thus been a shift from modes of local governance, traditionally concentrated at village or infra-village level, to management at municipal level.

A dual view of agricultural development

Countries' food security requires significant support by the State and its partners to family farmers who now produce over 70% of the world's food. But in a context of increasing liberalization of trade and (all too often) an absence of real instruments and measures providing support, agricultural investment programmes and policies fall into an ambiguous gap between support for family farmers and promotion of agribusiness. Large investors take advantage of this situation, to the detriment of family farmers. Mobilization of the international community in favour of recognition of local land rights and the definition of principles for responsible investment in agriculture actually conceal profound divergences between States as to the development models to promote. While some advocate the unification of markets (including land markets) and the development of agribusiness, others prioritize family farming, socio-economic integration, social equity and recognition of the diversity of local rights.

Different reform trajectories from one country to another

Faced with these challenges, the trajectories of land reforms initiated from the 1990s in many countries have differed, depending on the vision promoted by incumbent governments, the interests of dominant groups, the windows of political opportunity that have emerged, and the actors – donors as well as civil societies – that have accompanied them and have been able to influence the content and the pace of implementation. Depending on the context, periods of reform have been followed by periods of experimentation, pauses, and periods of acceleration, in tandem with elections and national or international pressure. The stated objectives of these reforms are often laudable: poverty alleviation, economic growth, social peace, and sustainable management of natural resources. They may however conceal the agenda of agribusiness, which is to expand, and that of the elite, to secure control. Two main types of land policy are now underway:

- Standard policies based on a single private and/or individual property, which massively distribute rights under various names, depending on the country (title deed, permit to occupy, etc.). These policies are often implemented systematically by the central authority, with varying degrees of success in different country, and without due consideration to the diversity of existing rights. They lead to exclusion for all farmers who fail to fit the neoliberal development model and who do not have the means to secure ownership rights.
- Alternative policies, which create new legal categories (certification, etc.) closer to local forms of land appropriation, and which set up land governance within which the administration, local authorities and customary authorities need to cooperate. Applied more progressively and on demand, these policies seek to take the specific situations of family farmers and their needs for security into account.

The inconsistency between "standard" and "alternative" methods fails to account for the diversity in the content of the approaches adopted. On paper, the implementation of some alternative policies is very similar to "standard" approaches, under the effect of impediments and abuses related to institutional logics and to the interests of actors involved in reforms.

Very moderate results for family farmers

An "ownership" bias out of phase with the land realities of family farmers

While alternative approaches have allowed for unquestionable progress in the accessibility and proximity of land services for populations, they still register crop farmers rather than pastoralists, locals rather than migrants (even those who have been there for a long time), and "customary owners" rather than actual farmers. The tendency to register "stocks" of rights (administration and management rights, often qualified as "customary ownership") rather than "flows" (local transactions and arrangements) weakens family farmers. The types of indirect rights (rental, sharecropping) underpinning them are not always recognized and are therefore not regulated, or only marginally, which undermines the rights of those who have access to land via in this way (migrants, women, young people). Policies are totally inadequate when it comes to regulating "private investment" in agriculture[3] and the change of land use resulting from the absence of consensus on the agricultural model to promote, as well as the asymmetry of power relations between different concerned groups. The concentration of resources is ongoing, and areas where management of land resources is shared are increasingly falling into private hands. This is leading to the gradual disappearance of pastures and forests.

Measures are still costly, complex and largely unfeasible

While procedures have been simplified, the measures proposed by alternative approaches remain relatively complex and costly for the populations concerned. No fewer than 14 steps are still necessary to obtain a certificate of land ownership in Burkina Faso, and in Côte d'Ivoire this certificate costs around 1,000 Euros. Faced with the absence of an appropriate system to secure ownership, the vast majority of family farmers are still using local modes of land management which rely heavily on the formalization of land arrangements (small documents) and on their social recognition (customary authorities). The interest to register rights is often over-estimated and the updating of land-ownership information remains problematical. The reforms undertaken remain heavily dependent on outside funding, and are sensitive to pressures to privatize rights and by the property market. Overall productivity gains of operations are often smaller than announced, and lead to other forms of dependence, especially on technology.

Perpetually inadequate land governance

Land security is above all a political and institutional issue that reflects the country's vision regarding development and citizenship, and depends closely on the State's and the local authorities' ability to guarantee the application of the rules. Land is not simply a matter of technical or legal tools. The implementation of hybrid land governance institutions involving local communities and authorities is probably a way to combine social and political legitimacy, but their tasks remains difficult and their effectiveness highly variable. The increased responsibility of local authorities with regard to land management implies sophisticated procedures and particular competences that are not always available, and that require appropriate means and time-frames. Communal land does not always correspond to relevant spaces from the point of view of local management of natural resources. Moreover, local elected representatives are relatively recent actors on the political scene and are constantly seeking social legitimacy. Problems concerning the authorities' transparency and accountability persist, especially in areas where the economic stakes are high (peri-urban, developed zones, etc.).

4 key principles to accompany more inclusive land reforms

Promoting enlightened and broad public debate involving civil society

Because land policies are at the heart of the social contract between the State and its citizens, they should systematically be discussed with all the interest groups (administration, councillors, NGOs and Producers Farmer organizations investors, etc.). Donors should not respond to appeals by States for aid for land reform unless these political choices have been debated and there is sufficient consensus concerning them. Debates should moreover be based on sound diagnoses that document, in particular, the diversity of social and land-related realities of family farms and their needs as regards land security. They imply long processes and long-term funding capable of accompanying the maturing of ideas and the necessarily progressive nature of measures taken on the ground. Donors must in this respect review the time-frame of their funding so that they can accompany this movement. Civil society actors and especially peasant organizations have a preponderant role to play in devising inclusive political solutions and setting up better land

[4] For further information, see in particular the C2A Brief n°22, Quelles règles pour encadrer les investissements dans l'agriculture ?, December 2014

governance. The means to achieve this should be provided for at various levels (by States, the technical and financial partners, etc.) to help them to enter into political debate and make propositions.

Broadening the offer of land security

Proposing a national framework that can apply to all areas of the country while taking their specific characteristics into account constitutes a dilemma for land policy makers. The risk is that of choosing one option rather than another, when the real issue is to offer a broad range of solutions that correspond to the wide diversity of family farmers' needs. The priority given to recognition and regulation of modes of indirect rights would be significantly advanced as regards the land security of family agriculture. The definition of the priority use of spaces (agricultural, pastoral, etc.) would also be an asset to secure uses, curb speculation on agricultural land around towns, and avoid the gradual disappearance of pastoral land. Donors have a key role to play in accompanying field experiments that open up possibilities in this direction.

Regulating and framing public and private investments

Because agribusiness are established on the same territories as family farms, the regulation of investments is an essential dimension of land policies, with social and economic implications that are as important as those of land rights. States have to integrate standards into their national laws, enabling them to ensure that investors respect, protect and remedy any violation of family farmers' land rights, whether these rights are recognized or not in the land policies in force. Their technical and financial partners must have transparent and constraining internal procedures for processing applications for aid, which guarantee positive economic, social and environmental impacts for local populations, and include recourse mechanisms for the populations affected.

Giving the means to family farms to invest in their land

In many countries the levers of family farms' land security depend primarily, not only on the implementation of dedicated policies, but also on suitable measures to act on the economic environment, the functioning of governance, the modalities of insertion in markets, and so on. The main investors in agriculture are family farmers. It is crucial for States to take measures to facilitate their development. In particular, credit (or funds for deposits) adapted to their needs must be made available. This would increase family farmers' investment capacities, strengthen all actors in supply chains, and implement agricultural and commercial policies that foster a favourable environment for the development of regional markets for local products.

As part of its mission to support the collective advocacy of its members, Coordination SUD has set up working committees. The Agriculture and Food Commission (C2A) brings together international solidarity NGOs working to realize the right to food and increase support for smallholder farming in policies that impact world food security: 4D, ACF, aGter, Artisans du Monde, AVSF, CARI, CCFD-Terre Solidaire, CFSI, CIDR, CRID, Gret, Inter Aide, Iram, Oxfam France, Peuples Solidaires-ActionAid France, Plate-Forme pour le Commerce Equitable, Réseau Foi et Justice Europe, Secours Catholique-Caritas France, Secours Islamique, Union Nationale des Maisons Familiales Rurales, and one guest, Inter-Réseaux.

The aim of the Commission is to coordinate the work conducted by its participants and to facilitate consultation among its members for their advocacy work with social actors and international policy makers. The members of the Commission share information on current international issues and reach agreements on who represents Coordination SUD in a range of arenas, such as the Interministerial Group on Food Security (GISA) and the Civil Society Mechanism (CSM) for the Committee on World Food Security (CFS). The Commission is mandated by Coordination SUD to formulate the positions taken by the group during the major institutional meetings on the subject of agriculture and food.

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[3] For further information, see in particular the C2A Brief n°22, Quelles règles pour encadrer les investissements dans l'agriculture ?, December 2014.