



Land use and management in Benin Republic: An evaluation of the effectiveness of Land Law 2013-01

Serge Gérard N. Ekpodessi*, Hitoshi Nakamura

Shibaura Institute of Technology, Japan

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ABSTRACT

Inefficient land use and management is rampant in developing countries. The most patent manifestation of this is the chaotic state of land use practices in cities. It's also demonstrated that the success of public policies and strategies in land use, urban planning, protection of natural resources, housing, agriculture, industry, transport and tourism, depends largely on the land resource management by the State and the Local Communities. Unfortunately, in the Republic of Benin, the land management is characterized by the lack of land mastership and the growing of land insecurity which did not promote sustained policy of investments and increased the failure of many peoples in Benin population, both in rural and in urban areas at the benefit of a minority. With the increasing competition for it access due to the rapid urbanization occurred in the last two decades, the land issue has become a major concern for the population and for the political and administrative authorities.

To regulate the land access all over the country, in the National Assembly in May 2013, the Benin government introduced a Land Law project which was adopted by the National Assembly of Benin on the 14th of August, 2013. The law is a common framework regarding all lands; it integrates land acquisition procedures, expropriation procedures, public utility land management, environment and natural resources preservation, land property rights, conflict management, and the administrative structure for land management. But after four years of the Land Law 2013-01 being implemented, land use in Benin remains a huge challenge for the government. Indigenous settlements can often be found in wetlands and flood-prone areas along the city where communities established many years ago are exposed to urban risks and a degraded living environment in Cotonou, a major city and economic pole of Benin. The situation is worsened by the many conflicts occurring among communities due to unsecured land transactions.

This study examines Land Law 2013-01 and its impact on land use and land ownership across Benin Republic. More specifically, it discusses the effectiveness and limitations of the law since its implementation. The structure of this paper is organized into five sections as follows. Section 1 introduces the context and objectives of the study. Section 2 presents a chronological evolution of land policies and the major changes in the land use from the colonial period to the post-colonial period. Section 3 introduces Land Law 2013-01. Section 4 discusses effectiveness and limitations of the law. Section 5 gives conclusions and recommendations. The key shortcomings include: a clear understanding of the multiple land access modes which is a necessary tool for sustainable land development, the legal dualism created by the coexistence of customary laws and the modern registration system, the vulnerability of legal land security and the inadequate land information management system.

1. Introduction

1.1. Research background

Land use policies play an important role in guiding the use, allocation, distribution, planning, and management of land resources (Afolabi, 2007). In an extensive study, Hu et al. (2016) demonstrated

the extent to which land use configuration impacts city planning and increases the necessity for cities to develop within integrated land regulations. Ogu and Adeniji (1998) reported that the sustainability of both urban and rural communities depends on appropriate management of land within settlements and cities. A historical analysis of land reform in Scotland (Hoffman, 2012) revealed its importance and role in the development of both urban and rural communities. The United

* Corresponding author.

E-mail addresses: sekpodessi@yahoo.fr (S.G.N. Ekpodessi), nakamu-h@shibaura-it.ac.jp (H. Nakamura).

Nations Conference on Environment and Development (1992) added sustainable land use planning as one of the eight program areas of Agenda 21, providing land requirements for the development of human settlement through physical planning and land use to ensure access to land to all households. The 2030 Agenda for Sustainable Development places a strong emphasis on an integrated approach for achieving the Sustainable Development Goals (SDGs), which can harness synergies and minimize potential trade-offs. The Agenda for Sustainable Development states that appropriate and equitable land use can play an important role in accelerating the attainment of many SDGs. The maintenance and restoration of land resources can play a vital role in responding to or mitigating the effects of climate change, securing biodiversity, and maintaining crucial ecosystem services while ensuring shared prosperity and well-being.

However, although land reforms have advanced in many developing countries, some continue to suffer from a lack of effective land use and management. This is most evident in the chaotic state of land use in cities. Major changes have occurred in African economies and societies, including demographic growth, urbanization and diversification of livelihoods, greater integration into the global economy, and recent decades' cultural changes. These processes have impacted customary land systems on a large scale. Although such systems draw their legitimacy from tradition, they have undergone profound changes owing to the interference of colonial and post-colonial governments and have been continually adapted and reinterpreted in the context of social, economic, political, and cultural changes. For decades, many African governments have been seeking to replace customary land tenure systems with modern systems of property rights based on state legislation, European concepts of ownership, and land titling and registration. This is partly because since colonial times, customary land tenure was not thought to provide adequate tenure security, thereby discouraging investment and negatively affecting agricultural productivity (Swynnerton, 1954; Wilson, 1971).

To address these issues, African states adopted a key role in regulating land relations either directly, through the nationalization of land, or through registration programs that are intended to create private rights of ownership. The central role of the state in land relations led to the promotion of agricultural development and to the control of a valuable asset. Moreover, it allowed for a clear comprehension of the modes of land access, which remains important in the support of sustainable land resource management. However, in a considerable part of rural Africa, lack of financial resources and institutional capacity in government agencies, lack of legal awareness, and, often, the lack of any perceived legitimacy in official rules and institutions contribute toward limiting the outreach of state interventions. Where land registration has been pursued, this has proved slow, expensive, and difficult to keep up to date, as well as being challenging for poor people to access (Hygin and Kakai, 2012).

As a result, very little rural land has been registered (across the continent, formal tenure is only found on between 2% and 10% of the land; Deininger, 2003), and customary land tenure systems appear in much of rural Africa. Claims of the inherent insecurity of customary land tenure have also been challenged by research demonstrating the resilience of such systems and their capacity to adapt to changing circumstances. Earlier approaches have emphasized the continuity of customary land tenure systems, although recent studies have emphasized their change and reinterpretation (Cousins and Claasens, 2006).

Despite its successful adoption of democracy in 1989–1991, the Republic of Benin remains in a state of transition. This is particularly true of its land policies, in which decentralization is an ongoing process. Local governments are exercising their prerogatives in accordance with the laws governing decentralization (Laws nos. 97-029, 98-005, and 98-007, passed on January 15, 1999). Mongbo (2002) noted, however, that “in Benin, the governments have been guilty of the sin of failing to take responsibility in the sector of land legislation.” He explains the presence of a void or a bug in Beninese land legislation, which can facilitate land

Table 1
Chronological evolution of land policies in Benin Republic.

| Important dates | Type of legislation | Description of consecutive legislations |
|-----------------------------------|--------------------------------|----------------------------------------------------------|
| Colonial period | | |
| Before the 1900s 1904 and 1906 | Colonial Decrees | Lack of formal land use regulation |
| November 25, 1930 | | Promotion of land titles and individuals ownership |
| July 26, 1932 | | Expropriation on grounds of public utility |
| November 15, 1935 | Colonial Land Laws | Regulation of land ownership in French African countries |
| August 10, 1961 | | Abolition of “vacant and ownerless lands” |
| August 17, 1965 | | N° 61-26: Review of expropriation regime |
| 1972–1990 | Constitution | N° 65-25: Review of land ownership regime |
| | | Marxist military regime established |
| Post-colonial period | | |
| February 2007 | Post-Colonial Land Laws | Rural Land Law established |
| August 14, 2013 | | Land Law N° 2013-01 established |

corruption. In 2007, the country adopted a rural land law, and on August 14, 2013, Land Law 2013-01 was passed by Benin's National Assembly. However, the proper implementation of land legislation is a struggle throughout the country, and most users of resources gain access to land by means of land systems that are now showing their limitations. Different combinations of modern and customary entitlements are to be observed, and multiple overlapping rights pertain to the same resource. This situation elevates the need to carefully examine the effectiveness of the Beninese Land Law 2013-01 (Tables 1 and 2)

1.2. Aim and structure of this paper

The study examines the Beninese Land Law 2013-01 and its effects on land use and land ownership across the Republic of Benin. Specifically, it discusses the law's effectiveness and limitations, as demonstrated since it was implemented. This paper is organized into five sections, as follows. Section 1 introduces the context for and objectives of the study. Section 2 gives a chronological evolution of land policies and the major changes in land use, from the colonial to the post-colonial period. Section 3 introduces Land Law 2013-01 itself. Section 4 discusses the effectiveness and limitations of the law. Finally, Section 5 gives conclusions to the study and recommendations.

2. Evolution of land policies in Benin Republic and major changes in land use and management

To provide a better understanding of the multi-linked processes that generate the problematic of land use and management, this section uses a historical perspective. It gives a brief description of the consecutive legislations from the colonial period to the post-colonial period until the present.

In the pre-colonial period, different rights co-existed: in particular the right of ownership held by the king and the right of use held by individuals (Circular A. P. of March 19, 1931 point 227). The king was the major landowner, having an eminent right (Circular A. P. of March 19, 1931: point 228), and he supervised and controlled the land under this right. In the kingdom of Danxomè in South Benin, under the authority of the Tokpo, the agriculture minister, land could be granted to a farmer, in exchange for a fee. Once this was done, the farmer acquired the right of use. “The family property was jointly owned and run by the community chief, who has established its usufruct for the needs of the community” (ibid: point 222). Originally, therefore, the land belonged to the sociocultural groups that settled there for migratory reasons or

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