

Land tenure and resource access in West Africa

Most West African countries depend heavily on natural resources for income, employment, livelihood, and export earnings. The legal and administrative measures that determine the access to and control over natural resources are, therefore, very important to enable improvement of long-term productivity, stimulate investment, encourage fair access and make it possible to avoid conflict.

In recent decades there has been rapid population growth and increased urbanisation and labour migration throughout West Africa. Some areas, such as the coastal countries along the Gulf of Guinea, have experienced heavy urbanisation. In other areas, pressure on farmland as a result of migration of people and cattle from drier to wetter parts has caused problems. These patterns are expected to continue, leading to land scarcity and a reduction in the size of holdings. Urban populations are expected to triple by 2030 creating an increasing market for food produced in the agricultural hinterlands.

West Africa's agricultural and ecological zones range from moist forest in the south to arid deserts in the north. Their history and socio-economic characteristics have resulted in many different systems for managing resources. However, there are issues common to all countries.

Common issues

Throughout West Africa contradictions exist between customary tenure and government laws and regulations (statutory tenure). However, customary tenure remains the most important system through which people regulate access to land and other resources. Customary tenure is based on the values and norms of each social group and this gives legitimacy to local decision-making.

Customary systems

In most customary systems land cannot be bought and sold freely. Despite this restriction, customary practices do not seem to have hindered investment in the small-farm sector. However, customary systems do have drawbacks. Powerful groups, for example, may use their position to access key resources, or try to sell land that is traditionally considered community property. In some customary systems the rights of socially marginal groups, including women and certain castes are poorly guaranteed. Also many governments do not recognise the legal power of customary authorities to regulate and administer land. As the interests of communities and groups in West Africa change this affects customs and practices of resource management. In addition, as commercial opportunities increase many customary tenure systems are tending to evolve towards individual rights.

Statutory systems

The state controls land in statutory systems and has the power to decide rights and titles. Statutory systems are based on state authority and are enforced by government to serve state interests. Statutory and customary systems have different ways of deciding on issues of access to resources. For this reason statutory systems are not always accepted at village level. As land becomes scarce and its value increases, problems caused by

the differences between customary and statutory law can lead to growing insecurity. In West Africa, other factors such as Islamic law and the impact of development projects can increase the difficulty of reaching decisions on the issues of rights to resources.

Effective and just implementation of customary and statutory laws and practices depends on clear definitions of the relationships between the two systems. One way to achieve this could be to define the areas in which statutory law applies - such as in peri-urban areas - and let the customary system apply outside these areas.

Registration

In West Africa, ensuring land tenure security is seen as a way of encouraging land users to invest in agriculture. At present less than 5 percent of land is in individual ownership under statutory law. Most of this land is in towns where its relatively high commercial value makes it worthwhile for owners to invest in registering title. However, experience shows that there are serious difficulties associated with land registration in West African conditions:

- Land registration is expensive for the state, requiring the maintenance of a centralised system for land survey and administration.
- The mapping and registering of title to many small plots and maintaining and updating registration is extremely difficult. In practice, widespread land registration is very time consuming and difficult. Legislation permitting or requiring registration is widely ignored.
- Once land is registered, informal, unregistered land transactions still continue along customary lines and registers quickly become out of date.
- Local elites and private investors generally have privileged access to formal registration systems and can exploit them to the disadvantage of customary rights holders.
- Survey and registration fees, illiteracy and bureaucratic processes discourage poorer rural people from registering land.
- Registration campaigns cannot deal with the full range of customary rights and they frequently undermine the security of women, other subsidiary rights holders, and community claims to common resources leading to increasing disputes and insecurity.

However, registration programmes may be useful in certain cases. For example, where customary systems have broken down or are very weak or where the value of resources has increased, leading to conflicts and disputes.

Other approaches

Registering individual rights is not the only way of regulating access and control to land and some other methods are being tested in West Africa. They include community land-use planning projects, such as *gestion de terroir* approaches where decisions on land and natural resource allocation are made at village level and accepted by government. Finally, farmers are also developing more informal ways of securing land transactions (rental land, sharecropping, or even sale) by involving witnesses and putting agreements into writing which are then signed by the village chief or even a local level administrator.

Conflict management

As resources become scarcer and more valuable, competition between users intensifies. It is therefore important that procedures and mechanisms are developed to resolve conflicts and disputes. Places where serious competition is likely to develop include peri-urban and wetland areas and regions that attract agricultural migrants. Relations between farmers and herders are likely to become tense as village cattle herds expand, grazing areas contract, fodder becomes scarce, and fields start blocking cattle tracks. In such situations customary systems for resolving conflict, where they exist and are still effective can be elaborated as a step towards dealing with disputes.

Common property resources

Common property resources remain important. Access to fuel wood, common grazing, the availability of non-timber forest products, fish resources and construction timber are important to most rural communities. Nationalisation measures by various governments and a lack of any recognition of villagers' rights in certain West Africa countries has meant that many common property resources are unregulated and open to all. In addition, resource use has altered because of interventions that have undermined existing management systems. Forests have been demarcated as government reserves, public boreholes have opened up grazing areas to all-comers, and traditional fishing regulations have been over-ruled by new projects and regulations. Common resources are under pressure, particularly in densely populated areas where a decline in fallow has reduced the amount of bush land available for forage and has led to an increasing assertion of individual rights to grazing and other resources.

Will it be possible, in future, for different users to agree on ways to manage common resources in the interests of long-term productivity, and will government be able to give sufficient power to local communities to enable them to negotiate and enforce controls on access to resources? Recent pilot projects have shown that such measures as the joint management of forest areas, and local management agreements between villagers and the government have considerable potential.

Pastoral livestock sector

The pastoral sector is critically important in many parts of West Africa and continues to be an important source of income and export earnings in drier areas. It is now recognised that the continued viability of the pastoral sector in the semi-dry areas of the savannas and the Sahel depend on herds being able to move as freely as possible between grazing areas and sources of water. They must also have access to dry season grazing because rainfall and forage resources are not enough to allow herds to remain in one place for long.

Pastoralism, in contrast to farming, is not recognised by most West African states as productive land use. This complicates the issue of pastoralists' rights in statutory law. It undermines security in pastoralist communities and makes it more difficult to deal with the problem of grazing areas being converted into agricultural land. Further, if pastoralists cannot use crop residues because farmers are using them for their own herds, grazing areas are reduced through cultivation and transhumance routes are blocked, it will be impossible to maintain a productive, mobile livestock system.

Future

In West Africa policies are being discussed to tackle these problems. These include decentralisation, clarifying customary and statutory tenure systems, and encouraging debate at local, national and sub-regional levels.

Given the diversity of most West African countries, the development of national policies on land and natural resource management must take local conditions into consideration. Several West African governments follow decentralisation policies that involves central government giving more power and responsibility to regional or district administrations and elected bodies. Land tenure administration should, if possible, be carried out at the lowest level of management leaving the higher levels of government to take on issue lower levels can not handle. This is the principal of subsidiarity. The idea behind this approach is that, by electing local representatives, local interests and needs are better served and contact between local people and the administration will improve.

West African states have limited financial and administrative resources making it difficult for governments to become heavily involved in managing land at local level. However, government remains responsible for providing the principles and framework that guide decision-making on issues of tenure and access to resources and ensure that local organisations are transparent and accountable.

West African governments already support a number of initiatives related to land tenure and access to resources. National governments can draw on these to encourage local debate on the policy options available in land tenure. Public consultation is particularly important in countries preparing new land tenure legislation. Experiences such as *gestion de terroir* can provide useful insights into how community-based natural resource management works. Lessons can also be learned from initiatives to establish the co-management of forest and wildlife resources and programmes to improve the management of conflict.

Finally, the exchange of experiences between countries not only strengthens the capacity to analyse and solve land tenure problems, it also allows trans-boundary issues to be taken into account. At this level regional bodies such as CMA-AOC, CILSS and ECOWAS can provide representatives from West African countries with opportunities to discuss common problems in developing policy for land tenure and natural resources management. ■

Adapted for publication in the LEISA Magazine from the IIED Drylands Programme report Land tenure and resource access in West Africa: issues and opportunities for the next 20 years, IIED, January 1999, with the kind permission of the IIED Drylands Programme.