Chapter 15
A Testifying Development of a Benchmark Study Approach Applicable to Land in the ECOWAS Area

Moustapha Gning Tine
Institut Agronomique et Vétérinaire Hassan II, Morocco

Gbeagblewo Edem
Institut Agronomique et Vétérinaire Hassan II, Morocco

ABSTRACT

At independence, the leaders of the member states, in the search for ways of development of their young nations, have encountered the thorny problem of land management which was under the control of the customary regimes. West African land legislation is not sufficiently clarified and suffers from a legal dualism that hinders development and can lead to widespread conflicts. The increasingly visible development of a single regional market and the desire to create conditions for lasting social peace in the region make it imperative to secure the means of subsistence and to harmonize their governance. This work is an attempt to develop a benchmark study approach applicable to West African land. It represents a support for land reforms taking into account present and future land issues in the region. It is a methodology that develops both a set of indicators to evaluate and compare the performance of land practices as an approach to analyzing the results and proposing reforms.

INTRODUCTION

Since the sedentarization of man, land has proved to be one of the essential elements for both habitat and production. Ensuring the acquisition, exploitation, taxation and transmission of landed property to avoid conflicts was one of the main concerns of any organized society. A set of rules and land practices were therefore developed by each society according to its specificities. The advent of modern states and capitalism will give these land rules and practices more complex missions. In fact, landed property has

become a commodity with the development of capitalism. This gives rise to more elaborate rules for securing land transactions. In addition, territory development concerns impose provisions to ensure land and land information requirements for development projects at the national and regional levels.

In the ECOWAS region, made up of 15 member states, land issue is the most important concern of regional policy makers, especially the non-homogeneous status of land in the sub-region. A challenge is related to the update of the land situation in different countries and how to better understand good practices in governance and equitable access to land. The issue of inheritance and de facto discrimination of women in relation to land and habitat are among shortcomings in ECOWAS region. There is a need to harmonize texts relating to the management of natural resources, development projects (ECOWAS, 2014). Since the colonial period, land practices have varied from one ECOWAS state to another. While much of it was governed by the land practices enacted by France, some were under English or Portuguese practices. This difference in practice continued after independence, thus giving countries more advanced than others in terms of resolving land problems in the region. An exchange of experiences would therefore be welcome for continuous improvement and harmonization of land practices in the region by taking into account local specificities in order to achieve good performance. Benchmarking is a good technique to achieve this goal of improving practices.

The aim of this chapter is to propose an approach for conducting a benchmark study linked to land governance in the ECOWAS area in order to have indicators that will enable us to highlight the best practices that can be used in the implementation of future land practices. This will be done by defining relevant and measurable axes and indicators for the study of land as well as the development of an approach for analyzing the results and proposing reforms.

ESTABLISHMENT OF THE BENCHMARK STUDY APPROACH

The benchmark is a methodology of constantly seeking best practices in order to adopt or adapt their positive aspects and to implement them in order to progress. The objective of the benchmark is to change a current situation, which can be improved to a more competitive situation, with the originality of comparing companies, administrations, services or offices operating in other fields of activity (Loroy, 2005). It is a technique that must be applied to the land field domain with great caution especially in the ECOWAS area. Trying to turn the study towards legislation could not be of great relevance because it is common to find countries with well-elaborated legislation and disappointing results. The land benchmark will rather focus on the impact of land practices. Indeed, an impact-practice analysis will allow us to more effectively grasp the best practices and to facilitate the achievement of the final objective of developing best practices. Land management is a complex field that directly or indirectly influences many sectors, especially the social and economic ones. A benchmark model of land tenure must therefore take into account this complexity of matter and the domains that depend on it. The approach of a land-based benchmark should therefore be oriented towards the search for practices that ensure good governance of land tenure and land administration in ECOWAS region.

Process for Establishing the Approach

Although many writers have written about the land situation, West Africa is characterized by a great lack of data on the impacts of practices in land governance. To remedy this situation, which constitutes a brake

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