

. Research Article

Land Tenure Security Policy in Côte d'Ivoire Sociological and Anthropological Perspectives of Failures and Challenges

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Introduction:

Like all sub-Saharan African countries, Côte d'Ivoire has adopted a rural land policy that requires the coexistence of two rural land management norms: the state legal arsenal and the customary norms of various 'indigenous' peoples (Mlan, 2013; Lavigne, 1998). From colonisation to the post-independence period, rural land policy is aligned with land theory advocating 'top-down' allocation, i.e. the introduction of legislation instituting administrative procedures with land registration as the cornerstone, and ignoring local norms (Morsen, 2014; Ouédraogo, 2011; Muttenger, 2010; Chauveau, 2010; Bertrand, 1998; Kouassigan, 1978). This approach provides for the demarcation of village territories and the formalisation of customary rights into private property rights. From the end of the 1980s, the generalisation of a policy of producing cadastres and titles in West Africa appeared, with experiments with rural land plans (PFR) in Côte d'Ivoire, Benin, Togo, Burkina Faso, etc. (Chauveau, 2014; Colin et al., 2010; Chauveau et al., 1998). paradigm of the formalisation of customary rights. The author (2014: 49) 'argues for an exploration of those aspects of the international aid system that contribute to the perpetuation of the dogma of formalisation despite its historical failure in Africa'. d'Ivoire out of land blockages? The study, which questions, from a socio-anthropological perspective, the efficiency of the policy of registering customary rights in Côte d'Ivoire, borrows

from Chauveau's position on the However, this ontological¹ flaw, the drafting of the law based on the model proposed by the French coloniser in sub-Saharan Africa (Comby, 1998), did not succeed in annihilating customs. In order to provide Côte d'Ivoire with a body of law, Law No. 98-750 was promulgated on 23 December 1998. From the middle of the decade 2000 to 2011, the state plans to test the implementation of this law, known as the 'pilot phase'. What is the outcome? During this pilot phase, the state undertook the generalisation of the policy of formalising customary rights. Noting some obstacles (we will call them failures), the Ivorian leaders have chosen to review the structural and legal framework in order to boost the policy of rural land tenure security, through the creation of a new decision-making body and new legal texts. Does the State's provision of land dynamic factors put Côte This paper is in some ways at odds with the fashionable international frame of reference, which does not yet foresee that 'tested against local issues, rights registration programmes are the object of interpretation and

¹According to Comby (1998), there are two sources that generate modern law on land: on the one hand, the law modelled on the Torrens model (comby, op cit), written on the basis of a conqueror of a given piece of land who decides to whom the titles of ownership should be granted (Mlan, 2013). On the other hand, the law from the 'bottom up', a recognition and transcription of practices of access to land, generation after generation (Comby, op cit), as is the case in France, with the law through the thirty-year prescription.

appropriation whose scope goes far beyond the strictly agrarian functions that land policies generally attribute to land resources. These policies are in fact at the heart of the processes of negotiation and redefinition of the categories of local citizenship and constitute major issues in the modes of regulation of access to 'land and other material, political and symbolic resources' (Colin et al., 2010: 5). In other words, the study revisits the land policy of the state of Côte d'Ivoire, which clearly reveals that, despite the failures during the pilot and generalisation phases of formalisation, this policy is still undergoing legal tidying up, due to the perpetuation of debt aid from its development partners. This study successively analyses (i) the rural land policy, (ii) the pilot and generalisation phases of the implementation of the 1998 law, (iii) the determinants of the failures, and (iv) the asymmetrical perspectives.

Methodology:

The study covered 8 sites. On the one hand, the 5 zones of the pilot phase of implementation of the 1998 law were selected on the national territory, considering some specificities: The south-western zone, including the departments of Soubré and Méagui, with the territories of villages in the sub-prefecture of Oupoyo (Méagui) as pilot sites, and the territories of the sub-prefectures of Okrouyo, Grand Zatory, Yabayo and Gueyo (Soubré) as non-pilot sites. This is an area of colonisation of the coffee-cocoa binomial with strong antagonisms between the indigenous Bakwé (Méagui) and Bété (Soubré) and the non-Baoulé and non-Burkinabè and Malian allophones (Ibo, 2006). The centre-western zone, including the department of Daloa (with the territory of the village of Doboua being tested), also experiences a high level of allochthonous (Baoulé) and foreign (Burkinabé) immigration among the Bété-Gnamboua peoples. This area is very marked by the effect of the exacerbation of political competition between the Baoulé and Bété-Gnamboua peoples and the leaders Houphouët and Gbagbo.

- The site in the East, including the department of Abengourou, the first pioneer zone of the coffee-cocoa binomial marked by massive Burkinabè immigration and Baoulé allochthones, all seeking legitimacy through the acquisition of property titles.
- Béoumi, in the centre of Côte d'Ivoire, in Baoulé country, is also home to a large Malinké population (Ivorians and Malians) as well as Burkinabés, attracted by cocoa farming.
- Korhogo, in the North, is under human pressure, due to agricultural activities (yam, cotton, mango, cashew nut, etc) and cattle breeding by Peuhl pastoralists (from Burkina, Mali, Niger).

These sites have in common that they have been chosen for the Rural Land Plans project². In addition, 3 sites outside the pilot areas have been selected: Aboisso with Ningué³ as a village in the South-East, the sub-prefecture of Afféry (Akoupé department) also in the South-East, and Mankono (with the village of Marrandallah) in the Centre-North. This enabled 150 interviews with land certificate applicants, on-applicants, civil administrators, administrative officers, village notabilities and members of rural land management committees.

Results the 1198 Law and Its Spirit:

Law No. 98-750 of 23 December 1198, on rural land tenure, is the law that constitutes the basic text for rural land policy in Côte d'Ivoire.

²Chauveau et al (1998: 1) report that 'rural land plan type' (RLP) projects were in operation in Côte d'Ivoire from 1989-90 to 1995, and continued in Guinea and Benin. The aim of the rural land tenure plan was to "secure the land rights of grassroots actors [...] and to develop a tool or "land documentation" for multiple uses".

³Aboisso, which includes the present-day village of Ningué, is characterised by a long history of immigration, which is reflected locally by the access of "foreigners" to the land from the early 1920s (Rougerie, 1957).

What is the spirit of this law? The main objective of this law is to transform customary rights into modern, individual and transmissible property rights. It aims to organise the transition from customary rights to private property rights. The law initially prescribes the complete registration of all village territories and the issuing of land certificates (CF) (individual or collective). At this stage, no condition of ethnic origin or nationality is specified: *"the aim is to establish recognition of customary rights exercised in a peaceful and continuous manner"* (Prefect of Méagui). To this end, farmers who are not entitled to a land certificate will be included in the specifications of the said document. At a second stage, the law provides that holders of CFs, of Ivorian nationality, must make another application (within three years) to obtain land titles (art. 1 of the 1998 law). In the forcep, holders of land certificates who are not entitled to land title (because they are not Ivorians) are required to apply for land title, on behalf of the state, which will grant them leases of the emphyteutic type (for a period of between 18 and 99 years). Then, during a third phase, the law encourages contractualisation on land subject to land certificates. It is therefore a land tenure policy based on the systematic formalisation of customary land rights, with the aim of replacing customary rights (collective or common) held by family members with individual private property. The fundamental remark on this law is the determination of the beneficiary: in its Article 1 (paragraph 2), the law mentions: *"However, only the State, public authorities and Ivorian natural persons are allowed to be owners"*. Article 4 of this law further specifies that: *"Ownership of land in the Domain Foncier*

Rural is established from the moment the land is registered in the land register opened for this purpose by the Administration". Then, to implement this 1998 law, three decrees were issued in 1999. The first, Decree n°99- 593 of 13 October 1999, sets the framework for the organisation and powers of the Rural Land Management Committees (C.G.F.R.). The second, Decree No. 99-594 of 13 October 1999, determines the modalities or procedures of application to customary rural land tenure. And the third, n°99-595 of 13 October 1999, determines the procedure for consolidating the rights of provisional land concessionaires in the rural land sector. With a view to better application of the legislative text (law n°98-750 of 23 December 1998) and regulations (decrees and orders), fifteen orders have been issued by ministers (Agriculture, Economy, Interior, etc.), either individually or jointly. Following the 2002 crisis, this legislative text was amended by Law No. 2004-412 of 14 August 2004, amending Article 26 of Law No. 98-750 of 23 December 1998 relating to rural land tenure, and Law No. 2013-655 of 13 September 2013 relating to the deadline for establishing customary rights on customary domain land (Chauveau and Colin, 2013). With the Ouagadougou agreement (in 2007), the political détente made it possible to put the 1998 law into a test phase with a view to identifying difficulties and seeking their solutions.

Structural Framework And Actors Of The Ivorian Rural Land Tenure Law:

There are two types of management bodies in the rural land sector in Côte d'Ivoire: decision-making institutions and implementing bodies. Table 1 below sets them out.

Table 1: Management Bodies for Rural Land Tenure in Côte d'Ivoire

Decision-	Gover	Nationa	Nationa	Ministr	Interior	Economy	Rural
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making institutions	ment	l Assembly	l Land Commission	y of Agriculture	Ministry	Ministry	Land Agency
Deconcentrated or local implementing institutions	Prefect of region	Prefect of department	Sub-prefect	Conservatory regional of land	Decentralised departments of the decision-making ministries	Committee sub-prefecture of rural land management	Villagers comity of rural land management
Technical operators	surveyors' experts	BNET D Officers	Investigator commissioner				

The National Land Commission draws up the broad outlines of land policy while the technical ministries ensure the feasibility of the texts and bodies. As for the Rural Land Agency (AFOR, dating from 2016), it is the body created mainly to secure rural land tenure, by decree n°2016-590 of 03 August 2016 (FAO, 2016). Below it, decentralised or local institutions implement rural land tenure policy. The practice in this area is as follows:

- The Departmental Prefect issues an order appointing the Sub-prefect of each sub-prefecture to head the Sub-prefectoral Rural Land Management Committee, and is responsible for signing the Land Certificate (CF) ;
- the Sub-prefect takes a decision establishing a Village Rural Land Management Committee in each village, appoints the Investigating Commissioner for each official investigation, under the proposal of the Departmental Director of Agriculture, initiates the opening of each official land investigation, chairs the
- sub-prefectoral committee which validates the said investigation, settles conflicts and disputes inherent to land competitions;
- the Regional Land Registrar implements the steps involved in registering land, creates the title, and determines the cost for each applicant for land title;
- the Departmental Director of Agriculture is responsible for proposing an Investigating Commissioner for each applicant for a CF or official enquiry, explains the steps and costs to the applicant, completes the application for a CF with the applicant, and fills in a copy of the land certificate which he submits to the Prefect for signature, after validation of the official enquiry;
- the Village Rural Land Management Committee appoints its members who participate in any official enquiry on land related to the territory of their village (in particular enquiries concerning applications for land certificates), approves these enquiries, and contributes to the settlement of conflicts and disputes related to the said enquiries;
- the expert surveyors and agents of the BNETD ensure the technical operations (by providing the technical file) related to

- official or private surveys, by determining the limits of village territories or parcels of land to be certified by the installation of markers, the elaboration of maps of territories or parcels of land, the geodetic connection of titled plots ;
- the commissioner-investigator conducts official surveys of the populations whose village territories or rural plots are the subject of official investigation

From The Pilot Phase To The Implementation Of The Ivorian Rural Land Law Pilot Phase In A Favourable Social Context:

The pilot phase of the 1998 Act ran from 2008 to 2011. When political actors were able to reach an agreement in Ouagadougou, the agreement was to lead to a consensual presidential election in October 2010. The appointment of the leader of the rebellion eventually made the Ivorian political and social climate viable, and serenely, the state and its partners envisaged the pilot phase. It has received funding from the European Union. The aim of this phase was to demarcate the village territories of selected localities, and to enable people with customary rights to land to have them established through official surveys in order to obtain land certificates "free of charge".

From Political Optimism To The Paradox Of Analytical Dissatisfaction:

On the whole, it can be said that the delimitation objective has been achieved in most of the villages in the pilot zones selected: Soubré-Méagui, Daloa, Abengourou, Béoumi and Korhogo. However, the phase of registering rights and issuing land certificates did not produce satisfactory results. In Méagui and Soubré departments, out of 517 applications for land certificates, 295 applications came from villages in Gnamagui territory (sub-prefecture of Oupoyo) and 114 applications from other villages in Oupoyo, and 108 applications came from the area outside the pilot sites: sub-prefectures of Okrouyo, Grand Zatry, Yabayoy and Gueyo in Soubré department. Out of these requests, 23

CFs were issued (including 9 in Gnamagui on 56,000 ha), with the indigenous Bakwé and Bété as beneficiaries. In Daloa, out of 95 applications for CFs, 75 were approved by the village committee of Doboua, of which 40 were approved, but no CFs were issued before the end of this phase in April 2011. The reason is that the natives and the prefectural body did not agree on who is entitled to benefit from the CF: are non-natives and foreigners entitled to the CF? In the department of Abengourou, the pilot phase (known as DP3) registered 300 applications for CF, of which 117 land certificates have been obtained (including Burkinabé), and 22 have been validated pending delivery. However, in Béoumi, Korhogo (Niofouin) and Mankono (Marrandalah), no FTs were issued, as the CVGFRs had not yet been installed and operations had not really begun. In Marrandalah, a chieftaincy elder sums up their situation: *"Yes, the law says to make a land certificate for us. But we make paper on something you're not sure about, otherwise if you're sure, you don't make paper. The land belongs to the Tioté tribe"*. For this notable (K. Y), *"You can get the land by asking the Tioté who will give you nothing. We can't accept that someone makes a CF on land that we have given him". He ends his argument by saying that "It is only after consultation that we can allow a Timité or a sénoufo. Otherwise the CF must be made in the name of the one who gave it to him so that it is known that he is a land applicant"*. In Akoupé, the Afféry CVGFR registered 13 applications for CFs, of which 3 CFs were issued (to 2 Akyé natives, including an executive and a cardiologist professor, and to a non-native of the Agni ethnic group, a financial services administrator). In the Aboisso department, 151 applications for CFs were registered between 2009 and 2014, of which 35 individual CFs were issued. In the village of Ningué, 10 applications were registered with 6 individual CFs issued: all of them are senior executives from outside the village. From these poor results (Kouamé, 2018; Inades Formation, 2015), what factors have been identified as blocking the process?

Persistent Failures In The Implementation Phase Of The Law, Continuum In The Paradigm Of Formalisation And The Passing Of A New Law In 2019:

This section takes stock of the progress and obstacles that are inherent in the implementation of the 1998 law, and the state's commitment to boosting things by passing a

new law. Some progress has been made in terms of achievements and the removal of certain blocking factors. The achievements concern results on the ground (see table below).

Table 2: Titles issued in Côte d'Ivoire

Wording	Definitive Concessions	Land Titles	Land Certificates	Interim concession order	Leases emphyteotics
TOTAL	353	1262	3857	2193	402

Source: Ministry of Agriculture (2017)

From this table, nearly 4,000 land certificates have been obtained on Ivorian land. These results are below expectations, considering the 23 million hectares of rural land to be certified. The government justifies the repeated political upheavals since the 1990s, with finances being allocated to deal with emergencies (Colin et al., 2013). However, the system has failed (Chauveau, 2014). This policy is sprinkled and maintained thanks to the help of development partners (World Bank, European Union, French Agency of Development, etc.). In addition, efforts will be made in terms of training actors and setting up structures. In 2017, the Ivorian state will redefine its vision and the principles of rural land management in a document called "Declaration of Rural Land Policy of Côte d'Ivoire". This document highlights the need to (i) take stock of the state of rural land tenure security, (ii) review the policy framework, (iii) reaffirm the vision, objectives and guiding principles, (iv) redefine the strategic orientations, (v) and proceed with the arduous implementation of the rural land tenure policy. This led to the effective constitution of the Rural Land Agency. At the structural level, therefore, the statistics available in 2017 indicate that the National Rural Land Security Programme (PNSFR) has resulted in the training of 8,529 actors consisting of : 69 Prefects, 36 Presidents of General Councils, 58 Departmental Directors of Agriculture, 18 MINAGRI Land Agents, 36 MINAGRI

Investigating Commissioners, 17 Departmental Directors of Agriculture, 17 Land and Mortgage Registrars, 280 Sub-Prefects, 803 CVGFR Presidents and Secretaries. Subsequently, expert surveyors and journalists also received training on the law and the process of implementing the land policy. In addition to men, 261 village territories were demarcated by the PNSFR. With financial support from the European Union, the Project for the Improvement and Implementation of Rural Land Policy in Côte d'Ivoire (PAMOFOR) plans to demarcate (from April 2019 to January 2021) 1,500 village territories. If it is successful, this project is in the process of being renewed and will lead to the demarcation of all the territories of the 8,000 Ivorian villages in less than 10 years. What are the factors that conditioned the failures of the pilot phase to the generalisation of the implementation of the formalisation policy?

Blocking Factors Of The 1998 Law And Proposals:

There are many reasons or blocking factors. They include: the plurality of actors, socio-anthropological constraints, the reluctance of farmers to pay land tax, opposition to knowledge of the true boundaries of plots occupied without measurement, vague and ambiguous texts.

➤ **Plethoric Actors In The Process Of Issuing The Land Certificate**

The main factors involved in the process are of 6 types. In order of intervention, there are the

central agents of the Ministry of Agriculture and those of the National Bureau of Technical Studies and Development (BNETD), representatives of the deconcentrated directorates of the Ministries of Agriculture and the Interior, expert surveyors, village chiefdoms and Village Rural Land Management Committees (CVGFR), and applicants for CF and non-applicants. This plurality of actors creates a cumbersome and inefficient process.

➤ **Financial Constraints And Lack Of Awareness Among The Population**

During the pilot phase operation for the implementation of the 1998 rural land tenure law, the activities of the central agents of the Ministry of Agriculture and those of the BNETD were carried out in terms of field missions, with substantial emoluments. However, the activities of the agents of the regional and departmental directorates of agriculture were perceived as routine, and no per diem was envisaged. This situation was a frustration that plagued the work. Regarding the obstacle linked to the lack of information between the different actors, the central sub-prefect of Soubré noted: "I think that the difficulty we have, for the moment, is that the law has not been sufficiently popularised. And therefore, it requires [...] a major awareness campaign".

➤ **Socio-Anthropological Obstacles**

The socio-anthropological obstacle is the relationship between the indigenous people, holders of customary rights to the plots and the migrants to whom certain rights have been granted for several decades. The positions of these two groups of actors, which seem to be irreconcilable for the time being, constitute one of the major obstacles to the process of issuing land certificates in rural areas (Kouamé, 2018). Let us give the 'pen' to K B, the land agent of Soubré department on this aspect: "*It also happens that, it's an observation, that even non-native people don't take a path that is, in my opinion, a bit Catholic. You came, someone gave you his*

property for your farm, you acquired it for free or for something. But when you make a request, it would be interesting if you approached the person and said "ah where I'm sitting there I want to put my name on the stool". It might lead to discussion". Despite the free nature of the process, the local actors could not agree on the nature of the rights transferred when the land was transferred to the migrants (Chauveau, Colin, Tarrouth, 2016). For the indigenous Bakwé, Bété, Kroumen, Sénoufo, customary rights have not been transferred, so migrants cannot establish CF on the land obtained under these conditions. Foreigners, for their part, refuse to sign the PVs of the natives on the vast plots on which they are settled. For example, Bada made 3 applications on 78, 52 and 32 hectares on which Burkinabé are settled. When the markers were placed on these three plots, the balance of power in favour of the Burkinabé did not allow this essential step to be taken. As we travel through the territory of Côte d'Ivoire, we realise that each person prefers to be the main owner of "its land". That said, when the Sénoufo is received in Séguéla, the Koyaka forbids him to grow cashew nuts or cocoa, and when the Sénoufo receives a Tioté de Marrandalah or Tiéningboué, he informs him that he is not allowed to plant cashew nuts or mango trees on his land. However, the Sénoufo settled in the sub-prefecture of Adaou, near Aboisso (south-east), believes he has the right to have title deeds to the land he has been farming in the territory of the village of Kogodjan for decades. In 2013, during exchanges with the administrative authorities and migrant populations in Soubré, the conclusions drawn from the declarations are implacable:

The prefect of the Nawa region, the prefect of the Soubré department, a native of Soubré, states that among his people, in Korhogo and around, anyone who is not Sénoufo will not be able to claim to have title deeds; canton chiefs and chiefs of land cannot give up ownership of land they already hold. The representative of the Baoulé, originally from Bocanda and Didiévi, says that he already

owns land (family land) in his home region, and does not wish to be a landowner in Soubré; it is his field that interests him.

- The chief of the village of Gnamagui says that he has never ceded customary law to anyone during land arrangements; he states that "when Oupoh L. alone settled more than 10,000 migrants, on the entire Gnamagui lineage estate, not divided up between families, how in this case was he able to pass on customary rights, in a context outside of tradition? ». For the Bakwé, therefore, only the indigenous person is likely to have customary rights and to be the owner of property titles.
- In Aboisso, when a migrant (Baoulé, Yacouba Malinké or Senoufo) gives up "his" land to another person, the Agni say it is because he no longer needs it: they inform the new buyer that he has no right to this land which falls back into the domain of the Krindjabo chiefdom which delegates the local chiefdom to manage it.

From Niofouin to Marrandalah in the North, Beoumi in the Centre, Aboisso in the South-East, via Daloa in the Centre-West, Duékoué in the West, Soubré and Tabou in the South-West, the populations believe that autochthony induces an exclusive character on the holding of customary law. This implies that some non-native migrants will want both to own land in their own country and to hold title to land in other countries. Bad faith?. There is therefore an ambiguity stemming from the meaning that the actors themselves give to this "land trade". For a Tioté de Marrandalah, the immigrants are good workers: *"What sends problems is that the Senoufo are big bulldozers (big land workers) they're going to take everything from us. It would be better if we dropped this land certificate thing.* In Abengourou, two phenomena have been observed: on the one hand, we note that the migrant-applicants have obtained land certificates, because there was a double recognition: that of the guardian or heir of the guardian, and that of the village notables. This double recognition clearly reflects the incompleteness of land transactions, which Colin and Tarrouth (2016)

refer to. The right of recognition (socially accepted and financial) induces a link between the "ceded" land and the transferor, at least with the rightful owners of the property ceded. As the land does not belong to a person, who moreover has no legal document attesting to it, but to a family or lineage, assignments even with money do not reflect a definitive sale. On the other hand, the Agni indigenous people let the Burkinabe do as they believed that the state was going to uproot the land or impose a heavy property tax on them. When they realised they were wrong, they vetoed all non-Ivorians applying for CF. Similarly, during the study in Daloa, a teacher-researcher of Malinké origin said: "the law is not good. Article 1 is not clear. It needs to be rewritten. Only indigenous people have customary rights. It is the indigenous people who must have the land certificates and land titles". For him, the law must evolve towards this socio-anthropological understanding of the land question.

- Reluctance of foreigners to be informed of the payment of a property tax

With regard to some of the relevance of the law, for example, on the payment of taxes to the state, a priori, non-Ivorians were found not to be involved in this process throughout western and south-western Côte d'Ivoire, due to the information that they will pay 50,000 francs per hectare each year to the state. Bada (Bakwé de Gnamagui) gives his understanding: "those [migrants], we all have to pay tax to the state, [...] but, this tax, I have to take from them, they give me their shares, more for me, and I will pay to the state". For this notable, autochthony should lead to a co-management

of the land estate with the immigrant farmer.

- The CF as a factor of knowledge of the true limits of plots occupied without measurement

In addition, some immigrants believe that the CF will give the opportunity to know the real boundaries of the plots obtained by "freehand" indications, without measurement. Adama B. (head of the Burkinabe community of Oupoyo,

sub-prefecture of Méagui) tells us: "indeed, it is fear, because at the time, when they came, the landowners did not measure. He looks, he takes the boundary of a big wood [tree], and they say, "from that wood to the other wood". For this Burkinabe chief, the landowner can "come and say, 'we, before, gave you 4 ha. But your corner is 10 ha. So, the 6 that are there, that's so much [sum] or I'll take it back". What are the proposals that these actors have envisaged?

➤ Ambiguous legal texts and interpretative texts
From the point of view of some analysts, texts remain ambiguous (Dagrou, 2007, Chauveau, 2017; Inades, 2016; Varlet, 2014): "customary rights in accordance with traditions", "customary rights ceded to third parties", "peaceful and continuous existence of customary rights", "land without a master". Following the blocking obstacles, the actors made proposals for improving the process. These texts offer interpretations, and do not make things easier

Actors' Proposition For An Efficient Implementation Of The Law

The local actors involved in the process of issuing the land certificate - prefectural bodies, directors and agents of the regional and departmental directorates of agriculture, members of the CVGFRs, farmers - were aware of the obstacles that would hinder the smooth running of the operation. To overcome them, they made proposals that need to be reproduced in extracts from their remarks.

➤ Proposals on the cost of the CF issuing procedure

For the Secretary General (SG) of the Village Rural Land Management Committee (CVGFR) of Afféry (South-East), it would be "good to leave the applicant free to choose his surveyor". In other words, the Afféry CVGFR SG suggests that applicants for CF should be free to contact the surveyor of their choice. In a symmetrical perspective, the SG of the CVGFR of Gnamagui (South-West), proposes: "The surveyor should be abolished. Since

agriculture can set the limits, this entire phenomenon can be addressed to

agriculture". The village chief of Gnamagui adds: "We must "trust the body that has been set up, which is agriculture. That's all we have to do! Agriculture is indeed the privileged partner of the peasant man". Then, the SG of the CVGFR of Afféry came back to explain his solution on the cost: "Either we are asked to pay the bundle but the investigation will be subsidised by the State. Since the commissioner-investigator is a civil servant of the state, he is paid by the state. For the Central Sub-prefect of the Soubré department: "the price of the technical survey must be proportionate to the purchasing power of the target population. The topographical survey is currently expensive, and therefore prohibitive [...] We can make a hectare at 100,000, people will accept, eh?"

➤ Proposal on the Property Tax Issue

Fear also inhabits the prefectural body. The Prefect of Soubré makes proposals: "*We are faced with the same problem of property tax. Huh! The property tax is not calibrated so that all owners can pay*".

➤ Alternative for farmers who are not entitled to the CF

K B. (Land agent at the Regional Directorate of Agriculture in Soubré) is convincing:

"The specifications allow the occupant to be secure. But many people don't understand this meaning. Whoever is on the land, thinks that he or she is necessarily the holder of customary rights to the land. So we also need to raise awareness among our population about this way of seeing the law. Securing the farms is included in the text. The specifications signed by the holder of the land certificate compel him to sign a lease contract with the occupier of the land". In short, Soubré's central sub-prefect summarises the proposals to be put forward: "*Therefore, at the level of the prefectural body, we who preside over the committee to*

obtain the CFs, it is necessary that the jurists or specialists in the law, re-explain to these authorities, so that we have a harmonious interpretation of the law. In the long run, there must be :

- *First of all: this great awareness;*
- *And then to reduce the cost, at the level of the topographical survey;*
- *To clearly determine who does what in this procedure, because if I wanted to go into details, there are many people involved, so that we have the impression that we are building a new Tower of Babel;*
- *And it would be necessary to simplify and determine: who does what and who has to do what and at what level, which would imply the elaboration of a procedure manual for the application of the law.*

The persistence of obstacles and failures has led the state and its partners to reorganise the structural and legal framework (Kouamé, 2018) in order to speed up the effective implementation of the formalisation policy.

Perpetuation Of The Substitution Policy In The Same Paradigmatic Option:

The creation of the Agence Foncière Rurale (AFOR), by decree n°2016-590 of August 3, 2016, and the appointment of its members have triggered a revival in the policy of implementing the 1998 law. The autonomy of this structure allows for vast projects to secure land tenure, covering the entire country. From 2019 onwards, the State will therefore reorganise the regulatory and legislative framework for rural land tenure: on 27 March 2019, four decrees were issued, reorganising the decrees of 13 October 1999. We can distinguish : Decree n°2019-263 defining the procedure for the delimitation of village territories (decree not in existence in 1999), Decree n°2019-264 on the organisation and attributions of sub-prefectural rural land management committees and village rural land management committees (former decree n°99-593), Decree n°2019-265 establishing the procedure for consolidating the rights of provisional concessionaires of land in the rural land domain (former decree n°99-595), and

finally Decree n° 2019-266 establishing the modalities of application to the customary rural land domain of law 0° 98-750 of 23 December 1998 (former decree n°99-594 revised) (Journal Officiel, 2019). Two innovations are worth noting. Firstly, with decree n°2019-264, the Rural Land Management Committee becomes the Sub-Prefectural Rural Land Management

County, while the vagueness about the CVGFR's presidency is removed, by clarifying article 8: "the village chief or his representative, chairman⁴ ...". Secondly, the procedure for the delimitation of village territories is the subject of a separate decree (n°2019-263 of 27 March 2019). In order to make the legal arsenal more efficient, a new law has been passed. This is law n°2019-868 of 14 October 2019, which amends law n°99-750 of 23 December 1998, relating to rural land ownership (RCI, 2019). All these efforts are also part of the continuum of the substitution paradigm.

Discussion:

Failures And A Possible Rewriting Of The Law By Custom

The pitfalls of this policy remain (Kouamé, 2018; Inades Formation, 2015; Chauveau, 2014). Firstly, the pre-eminence of the financing of rural land security operations is reserved for development partners, creating a budget externality that overburdens the country (footnote on the thesis of the need for any state engaging in this policy to have sufficient financial means). Second, the structural framework has certainly been improved. But the multiplicity of actors (especially bureaucratic), which has made the process cumbersome since the pilot phase, the poor use of Ministry of Agriculture staff (even though they are well trained), and the still

⁴ Ambiguities over the chairmanship of the Village Committee have long hampered the functioning of the CVGFRs, particularly in Afféry and Niamou (Mlan, 2019).

prohibitive cost of operations are likely to make the policy of substituting customary rights inoperative (Mlan, 2020), even if a test project envisages full state funding of land certification. Thirdly, the absence of a national debate on socio-anthropological⁵ constraints between customary owners and governments is a cause for concern. Substantive debates remain, including the link between nationality and land title, leading to a polarisation on Ivorian nationality for foreign immigrants exploiting Ivorian land. The state, for its part, does not serve the grip on local populations: nothing is mentioned on the question of the transfer of customary rights from customary owners to non-Ivorian immigrants, the recognition of these rights through the land certificate, and their securitisation in the name of the state with the promise of an emphyteutic lease. How can the State be the beneficiary of title in a transaction in which it did not take part? Fourthly, it is noted that executives are not involved in securing their families' land, thus being wary of adhering to the securitisation policy as if they were implicitly opposed to it. Fifthly, tendentious or ambiguous articles remain. For example, Article 17 bis of the new law (n°2019-868 of October 14, 2019) mentions: "Customary land without a Land Certificate cannot be transferred as of the entry into force of this law. The conditions for carrying out any other transaction on the land referred to in the previous paragraph shall be determined by decree". While local customary systems are not suspended, and rural land governance depends only on customary norms, on more than 22 million hectares of uncertified rural land, how can this prescription make State policy efficient? Furthermore, the almost complete repetition of the old Article 6 which states: "Land that has no owner belongs to the State and is managed according to the provisions of Article 21 below". In short, why not rewrite the law by the custom of the

⁵Chauveau and many other authors soon perceived this law as a 'bonus for autochthony'. Is this the source of repetitive failures?

Ivorian people? In fact, through the embedding of markets and practices, local land governance does not differ fundamentally from one people to another. Therefore, in fine, the law could be rewritten from the 'bottom up', based on the French model: according to Comby (2011: 2): 'In Europe, rights to land [...] are not based on an administrative decision [...] Property was based on possession, i.e. on a simple state of affairs which, because it had not been contested by anyone, became, after a certain period of time, a state of law. It is not up to the occupier of land to prove that he is the owner, it is up to the person challenging it to prove that he is the owner, and beyond the "limitation period", the action will no longer be admissible by the court'. For Comby (op cit: 2), "Each deed of sale or inheritance simply refers to the 'origin of ownership' resulting from previous deeds, going back at least thirty years, to provide a perfect guarantee for the purchaser". In France, continues Comby (op cit), "No parcel is registered. No one has a "land title", or a "permit to live", or a "land certificate". The only "paper" available to each owner is a copy of the deed of purchase of his land or the deed of inheritance division. Ownership is based on the "acquisitive prescription"".

Conclusion:

Despite progress or political will to boost things, Côte d'Ivoire cannot be said to be on the right track in terms of rural land policy. Why don't we take inspiration⁶ from the Republic of Vanuatu? Anxious to keep its traditional land tenure system, the Republic of Vanuatu (a former Franco-British colony under the name of the New Hebrides) has

⁶Our analysis is based on Morsen Mosses (2014:): 'Aware of the stakes and the importance of land for its citizens, the Republic of Vanuatu established a system of customary land tenure at the time of its independence on 30 July 1980, which advocates collective ownership. All land therefore belongs to indigenous customary owners and cannot be alienated. At the same time, a land lease system was also provided for in the constitution to accommodate the situation of French and English settlers who had previously occupied land acquired during colonisation.

devoted an entire chapter (XII) of its Constitution to "Land". These include Article 72, which states that "in the Republic, customary rules shall be the basis of the rights of ownership and use of land" and Article 73, which states that "all land in the Republic shall belong to the indigenous customary owners and their descendants".

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