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## LAND TENURE SYSTEMS' ASSESSMENT EVALUATION

### Case study of cote d'ivoire

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#### ABSTRACT

##### Context and background:

In Cote d'Ivoire, as in many African countries, social tensions are frequently linked to a crisis of the rule of property law. These socio-legal conflicts are referred to by various names depending on their subject matter or the time and place in which they arise: law crises, the weakness of the State apparatus, the unsuitability and failure of institutions, and so on. However, in the majority of cases, these conflicts stem from a common phenomenon: weak land tenure security, or more precisely, land insecurity.

##### Goal and objectives:

The awareness of the magnitude of the problem of securing land tenure and its formalization through the "PAMOFOR" project (in which we participated as a research group and technical land operator), leads us to ask the following questions: How can we master the analysis of land governance and land tenure security in Côte d'Ivoire? And what is its current state? Indeed, an assessment of land governance in Côte d'Ivoire is required.

##### Methodology:

To accomplish this goal, the LGAF tool was used as the foundation of a highly participatory approach to systematically analyzing various aspects of land governance. The goal is to identify best practices and reach agreement on priority areas for land administration improvement.

##### Results and findings:

The analysis' findings enable stakeholders to address key governance gaps and develop a clear roadmap for improving land governance.

##### Keywords:

land security, Cote d'Ivoire, PAMOFOR, land governance, assessment, stakeholders, land tenure.

## **EVALUATION DES SYSTEMES DE TENURE FONCIERE**

### **Cas d'étude de la côte d'ivoire**

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#### ***RESUME***

En Côte d'Ivoire, comme dans de nombreux pays africains, les tensions sociales sont fréquemment liées à une crise de l'état du droit de propriété. Ces conflits socio-juridiques sont désignés sous des noms divers selon leur objet ou le moment et le lieu où ils surviennent : crises du droit, inadaptation et défaillance des institutions, etc. Cependant, dans la majorité des cas, ces conflits découlent d'un phénomène commun : la faible sécurisation foncière, ou plus précisément, l'insécurité foncière. La prise de conscience de l'ampleur du problème de la sécurisation foncière et de sa formalisation à travers le projet « PAMOFOR » (auquel nous avons participé en tant que groupe de recherche et opérateur foncier technique), nous amène à nous poser les questions suivantes : Comment maîtriser l'analyse de la gouvernance foncière et de la sécurisation foncière en Côte d'Ivoire ? Et quel est son état actuel ? En effet, une évaluation de la gouvernance foncière en Côte d'Ivoire s'impose. Pour atteindre cet objectif, l'outil LGAF a été utilisé comme base d'une approche hautement participative pour analyser systématiquement divers aspects de la gouvernance foncière. L'objectif est d'identifier les meilleures pratiques et de parvenir à un accord sur les domaines prioritaires pour l'amélioration de l'administration foncière. Les résultats de l'analyse permettent aux parties prenantes de combler les principales lacunes en matière de gouvernance et d'élaborer une feuille de route claire pour améliorer la gouvernance foncière.

#### ***Mots clés***

Sécurité foncière, Côte d'Ivoire, PAMOFOR, gouvernance foncière, évaluation, acteurs, foncier.

## **1. INTRODUCTION**

Land tenure security is the set of processes, actions and measures of all kinds, aimed at enabling holders of customary rights and holders of use rights on land in the rural and urban land domain to protect these rights against any challenge or disturbance of use. ( source .....). For a country like Côte d'Ivoire where land rights are considered a slow, complex and expensive procedure, securing land is an important and urgent issue that should be seriously considered for the sustainable development of the country. The national rural land policy of the country aims to secure land rights in rural areas by implementing Law 98-750 of December 23, 1998 on rural land tenure. This law sets a framework for the transformation of customary rights into property rights and for the consolidation of granted rights.

Indeed, the absence of well established property rights and clear boundaries; the slowness of services and often their inaccessibility; as well as the lack of accurate geographic information present the atmosphere for land insecurity generating poverty and conflicts not only at the country level of Côte d'Ivoire but also at the village level. The awareness of the magnitude of the problem of securing land tenure and its formalization through the "PAMOFOR" project that aims to improve rural land tenure security in the project intervention zones- leads us to stress on the importance of assessing the land tenure system in Côte d'Ivoire. As a research team and land operator for this project, we used qualitative and quantitative indicators to identify good practices and build consensus on priority areas for land administration enhancement.

The analysis' results will enable stakeholders to address key governance gaps and develop a clear roadmap for improving land governance. In this regard, our research team, in collaboration with the NELGA North Africa Node, conducts activities to enrich the debate on land governance issues in Côte d'Ivoire. It has initiated several discussions to choose a convenient tool facilitating land governance assessment. To achieve this purpose, the LGAF for Land Governance Assessment Framework tool was used as the foundation of a highly participatory approach to analyzing various aspects of land governance in a systematic manner. The study has started by reviewing the World Bank report on Land governance analysis framework (LGAF) in Côte d'Ivoire in 2015 and analyzing legal aspects of land management and administration. Second, a panel of international experts was organized to assess three indicators of land governance. The panel's goal was to sensitize many stakeholders about the role of LGAF in land policy analysis. It provided an opportunity to bring together experts from a variety of institutions, including ministries, universities, scientists, and professionals. According to the study's findings, the LGAF has the advantage as a potential tool of land governance analysis in Côte d'Ivoire of providing specialists and many stakeholders with an instrument for understanding the shortcomings of land tenure systems and providing solutions to overcome difficulties and institutional barriers.

## **2. METHODOLOGY**

### **2.1 An implementing initiative of the LGAF process**

The World Bank developed the Land Governance Assessment System (LGAF) in 2009 to assess the state of land governance at a country or sub-national level. LGAF is a deliberative framework that is founded

on a highly participatory and country-driven approach. The aim of the process is to define best practices and achieve consensus on policy priorities, as well as to test, review, and introduce new approaches to resolve key gaps in land governance. Panel sessions are an essential part of putting the land governance system into action. In this regard, a panel of experts and specialists in land governance in Côte d'Ivoire was convened to review and rate a collection of dimensions of the instrument. The included dimensions necessitate thorough discussion and debate among the panelists in order to arrive at a mutually agreeable and fair conclusion. In this context, the NELGA North Africa network helped us organizing a panel discussion to further the discussion on land governance issues in Côte d'Ivoire and Africa.

## **2.2 Purpose of the panel:**

In the context of PAMOFOR project and in order to better understand the land administration system in Côte d'Ivoire, we found it interesting to first establish an assessment of the land tenure system based on the world's bank report in 2015. Second, we updated the World Bank's analysis to identify key changes and ensure continued improvement in land sector practices. The purpose of the panel is to evaluate indicators related to the continuum of rights under which land is held and organized by law, which will help to:

- Highlight the efforts made in the field of land since 2015
- Detect and control the difficulties encountered in the field/practice
- Debate around the land issue and propose recommendations.

Because of their qualitative nature, the choice of land-governance indicators focused only on land tenure indicators that require expert evaluation. Such indicators are:

(i) Land Governance Indicator (LGI) 1: Recognition of the continuum of rights: the law recognizes various land rights of individuals (including secondary rights of tenants, sharecroppers, women, etc.) is composed of 4 dimensions:

- Dimension 1: Individuals' land rights in rural areas
- Dimension 2: Customary land rights
- Dimension 3: Indigenous peoples' rights to land and forests
- Dimension 4: Urban land rights

(ii) Land Governance Indicator (LGI) 2 is composed of 7 dimensions as follows:

- Dimension 1: Accessible procedures for individualizing tenure
- Dimension 2: Mapping and registration of Individual lands in rural areas
- Dimension 3: Mapping and registration of Individual lands in urban areas
- Dimension 6: Women's rights in practice in both urban and rural areas
- Dimension 7: Women's land ownership rights are the same as men's in law and in practice

To organize the panel in the midst of Covid19 pandemic, we convened an international conference in the form of webinars, inviting experts on land tenure in West Africa in general and Côte d'Ivoire in particular. The aim was to get expert opinions, feedback, and ratings through a debate on the various

dimensions of land governance indicators. The Panel of Experts provided an opportunity for a pedagogical and technical exercise to be carried out. Its aim was to raise awareness of LGAF's position in land policy analysis among a wide range of stakeholders, as well as to verify LGAF's contribution and feasibility in land policy assessment missions.

### **2.3 Panelists and Panel SESSION:**

The LGAF Panel was attended by 20 experts from different institutions including: representatives of Ministry of Land Planning, Urban Planning, Habitat and Politics of the City, Surveyors Enterprises, National Order of Surveying Engineers, the National Order of Notaries, IAV Hassan II, Rural Land Agency (AFOR); FELIX HOUPHOUET BOIGNY University of COCODY and University of Bouaké. Panelists were selected based on their expertise and professional experience with the LGAF tool and the study conducted in Côte d'Ivoire in 2016. The list thus established brings together people from different backgrounds, namely geographers, lawyers, teachers-researchers, notaries, planning specialists and other professionals with a perfect knowledge of the subject to be discussed. The panel was facilitated by the coordinator of the NELGA network in North Africa. The first section of the panel was devoted to the role of LGAF instrument in the study and the evaluation of global land governance in Côte d'Ivoire.

The panel's second section dealt with grading the dimensions. As a result, the panelists include the required notation based on their understanding of the topic that the dimension is concerned with, as well as a justification for their decision. The twenty evaluation sheets completed by the specialists were collected at the end of the panel. We were able to summarize the panel results after collecting the evaluation sheets and creating the scorecard for the indicators. The affected score for each dimension in the table corresponds to the dimension that received the highest rating from the panelists. If two rates are equal, we assign the best rate to the dimension.

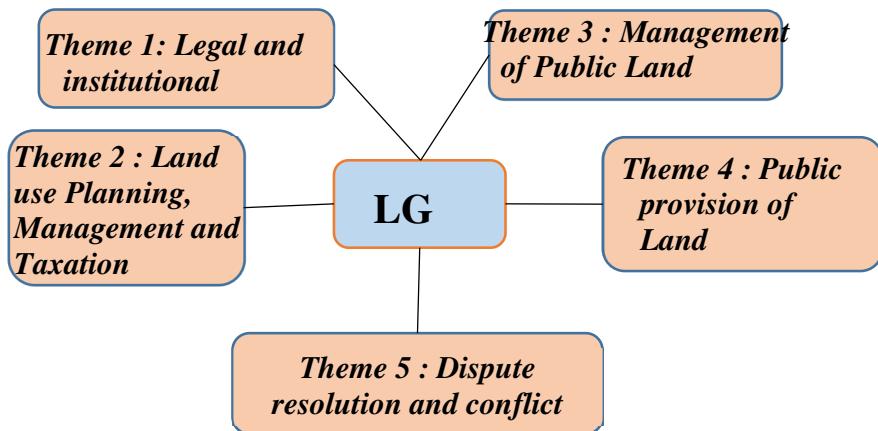
## **3. RESULTS AND DISCUSSIONS**

### **3.1 LGAF tool**

The Land Governance Assessment Framework (LGAF) is a diagnostic tool for assessing the legal framework, policies, and practices of land governance and tracking long-term improvement. It was created through a collaborative process that recognized the growing importance of land governance in enabling countries to meet the challenges of the twenty-first century. It serves as a foundation for highlighting achievements in urbanization and land management in response to increased land demand (World Bank, 2013). The LGAF's matrix structure facilitates the independent analysis of several indicators pertaining to specific themes that concretely affect various sectors of land governance. The LGAF process will be carried out in a short-term activity (4 to 6 months) through a series of phases overseen by a country coordinator (World Bank, 2012). It is divided into five major themes to assess land governance performance: the legal and institutional framework, land use planning, land management and property taxation, public land management, public access to land information, dispute resolution, and conflict resolution. The five themes are distinguished by 21 land governance indicators (LGI). Each indicator is related to a fundamental governance principle and is further subdivided into

dimensions. There are 2 to 6 dimensions for each indicator, for a total of 80 key dimensions. Each dimension must be assessed by selecting an appropriate response from a list of statements and pre-coded proposals. (Kouame et al g, 2016)

The targeted LGAF key indicators can be supplemented by optional modules of land governance indicators, such as the large-scale land acquisition module or forest governance, to assess areas of particular depth for some countries (Figure 1).



**Figure 1:** The main themes of land governance

A scorecard is created for each dimension within the 80 elements of LGI to present the appropriate response from a list of previously coded options. A, B, C, and D are used to rate the affected scores. The letter 'A' denotes the best possible situation, while the letter 'D' denotes the least desirable situation. The score B denotes a situation that is moderately good, while the score C denotes a situation that needs to be improved. Some dimensions will necessitate filling out a matrix with statistics or figures to justify the ratings given to them. Panels of experts comprised of people with in-depth knowledge of the subject evaluate the LGI. During a panel meeting, the experts shared their knowledge on dimensions for evaluating information and judgments. To ensure that the panel session is effective and productive, introductory notes on each of the five selected themes are prepared (Table1).

LGI-nn Dimensions i	Scoring
Rating	<p><b>A-</b> Dimension description is the best option towards a good land governance scenario</p> <p><b>B-</b> Dimension description is generally the second-best set of options that make progress towards good land governance</p> <p><b>C-</b> Dimension description generally struggles to meet the criteria for good land governance however some attempts are being made</p> <p><b>D-</b> There are no attempts in this area that indicate good land governance operates</p>

**Table 1:** scoring process of LGAF (World Bank, 2012)

When panelists are unable to reach an agreement or there is a significant lack of data or evidence to make a decision about a specific dimension, the sampling method can be used to determine the dimension's score. This approach is taken in light of the originally agreed-upon time, budget, and resource constraints (World Bank, 2012).

### **3.2 Analysis of the recognition of the continuum of rights:**

A study was carried out in order to describe the land governance framework in Côte d'Ivoire. The analysis is founded, first and foremost, on an examination of the legal texts in the Ivorian land law arsenal, as well as reports from ministries and public institutions involved in land administration and management. The analysis' goal is to present regulations and legal instruments dealing with each dimension of the LGAF instrument, supported by statistical data, in order to provide a comprehensive picture of land governance in Côte d'Ivoire. Due to a lack of information, some dimensions have not been addressed. An updated assessment of the above-mentioned indicators has been completed in order to address key governance gaps and develop a clear roadmap for improving land governance.

### **3.3 Individual rural land tenure rights**

The understanding of this dimension can be confusing. At first glance, individual rights in rural areas are clearly recognized by means of registration according to Law No. 98-750 of December 23, 1998. (KOUAMÉ, G. (2018) & Ivoire-Juriste, (2017)). Therefore, experts assigned to these lands the grade A. However, the percentage presented in the elements of ratings has put our stakeholders in a kind of ambiguity. Indeed, the statistical and legal character of this dimension refers to the number of individual properties registered in the rural area. The practice in 2015 had shown that less than 50% of the rural population had recourse to registration because of the ineffective procedure, the onerous cost, and other social rights, which are not protected by registration. This has not changed in 2020. The reason that this dimension has not changed in rating is that the statistical margin provided by the LGAF tool does not allow for a minimal improvement to be seen. That said, with the implementation of a framework of land tenure security projects, such as PAMOFOR, whose purpose is to facilitate the registration process and popularize it among villagers, this dimension will surely improve, although not anytime soon (Table 2).

<b>Indicator 1 :</b> <b>Does the law recognize individual rights? (Including secondary rights, minority and women's rights)</b>		<b>2015</b>	<b>2018</b>
<b>Dimensions i</b>	<b>Qualification</b>		
Individual rural land tenure rights are legally recognized and protected	A- The existing legal framework recognized and protects the rights held by over 90% of the rural population B- The existing legal framework recognized and protects the rights held by 70%-90% of the rural population C- The existing legal framework recognized and protects the rights held by 50% to 70% of the rural population	_____	_____

D- The existing legal framework recognizes and protects the rights held by less than 50% of the rural population	D	D
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**Table 2:** rating of the indicator 1 Dimension i

### 3.4 Customary land rights

This dimension also caused confusion among stakeholders between the notion of "recognition" and "protection" of customary rights. According to the interpretation of our panelists, this dimension has improved in terms of rating from "C" to "B". Law 98-750 on rural land tenure fully recognizes customary rights and offers them the possibility of benefiting from land certificates. Article 4 of the 1998 DFR law states: "Ownership of land in the Rural Land Domain is established from the registration of this land in the land register opened for this purpose by the Administration, and in the case of land in the customary domain by the Land Certificate. CHAUVEAU. J.-P (2008). The holder of the Land Certificate must request the registration of the corresponding land within three years from the date of acquisition of the Land Certificate. " This law was amended by Law No. 2013-655 of September 13, 2013, which recognizes, on a temporary basis, a customary land domain whose rights must be formalized and transformed into a private property title within 10 years. This 10-year period renders customary law of little legal value, because if it is not transformed into registration, this right is transferred to the state. In addition, the long and complex procedures and the high cost of the certificate make the operation inaccessible to small farmers and therefore difficult to protect (Table 3).

<b>Indicator 1 :</b> <b>Does the law recognize individual rights? (Including secondary rights, minority and women's rights)</b>		<b>2015</b>	<b>2018</b>
<b>Dimensions ii</b>	<b>Qualification</b>		
Customary land rights are recognized in law and protected in practice	A- Recognition and effective protection of all customary rights		
	B- Recognition of customary but partially protected rights	B	
	C- Customary rights are only partially recognized by the law but they are really protected	C	
	D- Customary rights are not recognized and not protected		

**Table 3:** rating of the indicator 1 Dimension i

### 3.5 Aboriginal rights to land and natural resources

This dimension was the subject of debate among the panelists between the "B" and "C" ratings. The "B" rating recognizes the rights of members of a population that settled in a given territory before all others, that has established particular, ancient and still current relations with this territory and its environment, and that has its own customs and culture, these members are commonly called indigenous, but these rights are only partially protected. Bonnecase, V. (2001). This is the case if we admit that the word indigenous refers to Ivorian nationality. Moreover, the rights of indigenous peoples to land are clearly protected by the constitution and the 1998 law, as article 1 stipulates that "only the State, public communities and Ivorian individuals are allowed to own land.

The "C" rating, on the other hand, states that the recognition of indigenous rights is partial but the protection of this right is total. We therefore opted for this rating after deciding that the terms "autochthony" and "Ivorianness" were not synonymous, also because there is no legal text that speaks concretely of indigenous rights and therefore they are not recognized. But in practice, the differentiation between autochthonous, allochthonous and allogenous is clearly established between villagers (Table 4).

<b>Indicator 1 :</b> <b>Does the law recognize individual rights? (Including secondary rights, minority and women's rights)</b>		<b>2015</b>	<b>2020</b>
<b>Dimensions iii</b>	<b>Qualification</b>		
Indigenous land rights are recognized in law and protected in practice	A- Recognition and effective protection of indigenous rights		
	B- Recognition of indigenous rights but partially protected rights		
	C- Partial recognition of indigenous rights, which are protected	C	C
	D- indigenous rights are not recognized and not protected		

**Table 4:** rating of the indicator 1 Dimension iii

### **3.6 URBAN LAND TENURE RIGHTS**

For this dimension, we were unable to obtain a rating because our participants did not have in-depth knowledge of urban land. However, private land rights in urban areas are protected by the final Concession Order issued by the Minister in charge of construction and urban planning (source: Ordinance No. 2013-481 of July 2, 2013, establishing the rules for the acquisition of urban land) (Table 5).

<b>Indicator 1 :</b> <b>Does the law recognize individual rights? (Including secondary rights, minority and women's rights)</b>		<b>2015</b>	<b>2020</b>
<b>Dimensions iv</b>	<b>Qualification</b>		
Urban land tenure rights are legally recognized	A- The existing legal framework recognizes the rights held by more than 90% of urban population		
	B- The existing legal framework recognizes the rights held by 70 to 90% of urban areas		
	C- The existing legal framework recognizes the rights held by 50 to 70% of urban areas		
	D- The existing legal framework recognizes the rights held by less than 50% of urban population	D	D

**Table 5:** rating of the indicator 1 Dimension iv

### **3.7 Accessible opportunities for land tenure individualization**

With the implementation of the PAMOFOR project, we surely expect an evolution in the rating of this dimension, since through the PAMOFOR project, there is a facilitation of individualization procedures, shortening of delays and free services (Table 6).

#### **Indicator 2 : Respected and enforcement of rights**

Dimensions i	Qualification	2015	2020
Accessible opportunities for individualization on exit	<p><b>A-</b> The law offers those who hold land under customary, collective, or communal tenure the opportunity to individualize land rights in whole or in part they wish. The procedure for doing so are affordable, clearly specified, protected and observed in practice.</p> <p><b>B-</b> The law offers those who hold land under customary, collective, or communal tenure the opportunity to individualize land rights in whole or in part they wish. The procedure for doing so are affordable and include basic safeguards against abuse.</p> <p><b>C-</b> The law offers those who hold land under customary, collective, or communal tenure the opportunity to individualize land rights in whole or in part they wish. The procedure are not affordable or clear, which leaves discretion in their application.</p> <p><b>D-</b> Although there is a demand, the law does not offer any possibility for those who hold land under customary, collective or group regimes to individualize land rights totally or partially.</p>		
		<b>C</b>	<b>C</b>

**Table 6:** rating of the indicator 2 Dimension i

PAMOFOR is certainly a framework that has been created, but it has not yet been deployed in the field, and it will be from the data collected on PAMOFOR that we will be able to say whether these procedures are actually respected and observed in practice. We have therefore opted to keep the same rating until the project is finalized.

### 3.8 Formal registration for individually owned lands in urban and rural areas.

For these two dimensions, given that it concerns individual lands, it can be said that there has been a clear evolution in terms of mapping individual lands in rural areas since 2015, but the percentages provided by the LGAF tool for this dimension do not make it possible to highlight this improvement, because in sum the total of individual lands registered remains very far from 50%. It is also important to differentiate between mapping of individual lands (connotation of land certificate), village territories (delimitation of villages) and mapping of territories in general. (BOHOUSSOU, A. O. 2008) (Table 7).

<b>Indicator 2 : Respected and enforcement of rights</b>			
Dimensions iii	Qualification	2015	2020
Individually owned lands in urban areas are formally registered	<p><b>A-</b> More than 90% of individual lands in urban areas are officially registered.</p> <p><b>B-</b> Between 70 and 90% of individual lands in urban areas are officially registered.</p> <p><b>C-</b> Between 50 and 70% of individual lands in urban areas are officially registered.</p> <p><b>D-</b> Less than 50 and 90% of individual lands in urban areas are officially registered.</p>		
		<b>D</b>	<b>D</b>

**Table 7:** rating of the indicator 2 Dimension iii

### 3.9 Women's rights recognition in practice

On the issue of women, women's rights are registered and recognized in practice in both urban and rural areas. "In March 2016, 1730 land certificates issued, including 159 to women, on a cumulative area of 60691.4559 ha, or about 2% of land in the rural land domain. Nearly 70% of the land in the rural land domain remains to be registered" (Kouame et al, 2016).

Today, the percentage of women's rights has increased but remains below 35%, hence the "C" rating. As for the issue of gender equality, positive Ivorian law, through legislation (constitution, 1998 law on rural land tenure, 2013 ordinance on urban land ownership, civil code, etc.) does not discriminate in terms of access to land in either the rural or urban domain. However, under customary law, women have indirect access to land through their men (father, husband, brother, uncle and this in the patriarchal or even matriarchal system). They generally cannot own the land, but they can rent it and cultivate it (DJANE, K.A and BAMBA,A, 2020) (Table 8).

Indicator 2 : Respected and enforcement of rights		2015	2020
Dimensions vi	Qualification		
Women's rights are registered and recognized in practice in both urban and rural areas.	A- More than 45% of the land registered to individuals is registered to women individually or jointly.		
	B- Between 35% and 45% the land registered to individuals is registered to women individually or jointly.		
	C- Between 15% and 35% the land registered to individuals is registered in the name of women individually or jointly.	C	C
	D- Less than 15% the land registered to individuals is registered in the name of women individually or jointly.		

Table 8: rating of the indicator 2 Dimension vi

## 4. FINDINGS OF THE PANEL SESSIONS

### 4.1 Recognition of land rights

According to the World Bank, the protection and recognition individuals' land rights and communities in Côte d'Ivoire are not satisfactory. The adoption of the main legal texts governing land in both urban and rural areas is not effective.

Indeed, the rural land law No. 98-750 of December 23, 1998 recognizes the land rights of individuals in rural areas through registration and stipulates in its Article 4: "Ownership of land in the Rural Land Domain is established from the registration of this land in the land register opened for this purpose by the Administration...» However, in practice, these lands represent less than 50% of the rural population because of the ineffective registration procedure mainly due to its complexity and its costly nature. In addition, the other types of rights around which social relations and economic production are built- (e.g., the right of access to grazing land, the right of access to water, the use rights of non-owners, etc.)- are not taken into account in the registration process (Koutoua, A.J.P,2018).

For customary land rights, Law No. 98-750 of December 23, 1998, as amended by Law No. 2013-655 of September 13, 2013, recognizes a customary land domain whose rights must be formalized and

transformed into a private property title within 10 years, but this recognition is temporary (Lamarche, A.A.2019). If these lands are not registered within the given deadline, they do become part of the private domain of the State, which can freely dispose of them and reallocate them to private investors. The institutional and legal system thus allows for the formalization of customary rights through the issuance of a land certificate (individual or collective) to the population, but the legal validity of this document can be questioned three years after its issuance. In addition, the complex and lengthy procedures and the high cost of the certificate make the operation inaccessible to small farmers. Customary rights are therefore only partially recognized but protected by law. (Banque mondiale,2012)

#### **4.2 Respect of land rights**

Regarding the process of individualization of tenure, the existing legal framework allows for the evolution of customary land tenure systems toward individualization of land tenure, but the procedures for doing so are complex, lengthy, and costly for the public. Field practice shows that it takes at least a year to establish a land certificate.

With regard to land leases, the majority of the Ivorian population is unfamiliar with the legal texts that regulate land tenure. In rural areas, in particular, the authorities make the use of rural leases conditional on the issuance of a land certificate and a land title. In order to better regulate and secure the land transactions that take place in the countryside with the "small papers" written by the actors (sellers/buyers), a study conducted by the Ministry of Agriculture in 2008 and financed by the European Union has proposed at least 6 models of rural contracts or leases. (HTSPE ,2008)

In urban areas, the July 2013 law defines the procedures for individualizing tenure. However, these procedures are complex, which does not allow for the issuance of administrative acts within a reasonable timeframe. The absence of master urban plans and/or their obsolescence hinder the issuance of property titles to users. In addition, the mandatory payment of the land alienation price and the registration of the title in the land register constitute important additional costs that are not likely to facilitate the protection and respect of individuals' land rights. (Boone, C. 2018).

#### **4.3 Gender equity**

On the issue of gender, the 1998 Rural Land Law and the 2013 Ordinance on the Acquisition of Land in the Urban Domain does not distinguish gender in the application of rights. But in the customary land tenure system, women are discriminated in issues of ownership, access, and control of land. In the absence of available statistical data, the World Bank has deduced that less than 35% of registered land is in a woman's name. Like men, women's rights are very poorly registered and less recognized in practice.

For gender equality in land rights, Ivorian positive law (constitution, 1998 law on rural land, 2013 ordinance on urban land ownership, civil code, etc.) does not discriminate in access to land ownership in either the rural or urban domain. On the contrary, equal property rights between men and women are guaranteed by the Constitution and other laws. In practice, restrictions on the exercise of these rights

are mainly observed in rural areas due to socio-cultural constraints that are unfavorable to women (Tano, M. M. E & Brou, F.R. ,2020).

#### **4.4 Legal and institutional framework for land tenure in Côte d'Ivoire**

According to the World Bank's analysis of the legal and institutional framework for land management, Côte d'Ivoire has a real legal arsenal and various public and private institutions in charge of land issues. The legal texts define the rules, operations and procedures required to protect the rights of private operators, the State and citizens related to access and ownership of land (Deininger, k.; Selod, h. & Burns,a, 2012).. However, there are significant discrepancies between the provisions of the laws and the socio-cultural practices of actors in the field, despite the existence of legislative and regulatory texts(Varlet, f. ,2015). The overlapping of multiple public institutions in charge of implementing the legal texts sometimes weakens the effectiveness of the procedures.

##### **a) Overlapping functions of institutions :**

One of the main causes of delay and dysfunction in land policy implementation is the overlapping functions of institutions. Overlapping mandates to management or implementation structures can limit their competencies. This is the case, for example, of the Land Management Agency, whose sole role is land use planning, it cannot influence land management because it has no decision-making power in this area. It is replaced by the Rural Land Directorate within the Ministry of Agriculture, whose function is to ensure the management of land tenure security leading to the issuance of land certificates and then land titles following registration. (**ALERTE-Foncier,2019**)

In fact, the overlapping of competences in the execution of the different tasks is a consequence of the misunderstanding that the facilitators have of their respective roles. This is mainly due to the fact that there is not always clarity in the policies and intervention strategies of the actors. In addition, there is no framework for consultation or coordination between the different administrations involved in rural land tenure.

##### **b) Weaknesses of the cadastre :**

One of the main difficulties with the Ivorian cadastre is the collection and management of information on land rights. This information is available at the Direction Générale des Impôts, which has two directorates directly concerned with land issues: the Direction du Cadastre and the Direction du Domaine, de la Conservation Foncière, de l'Enregistrement et du Timbre. The creation of another cadastre for rural land seems to pose a problem in terms of the availability of land information and its harmonization with the urban one.

According to the Ministry of Agriculture, the national land registry has weaknesses at various levels:

- Existence of numerous and inconsistent geo-referencing systems;
- Weak information processing capacities in terms of human and material resources;
- Preponderance of urban land activities over rural land activities (urban orientation of national cadastre activities);

- Weak concentration of national land registry services, making it difficult to deal with rural land issues;
- Lack of efficient management tools for quick and easy access to rural land data;
- Cumbersome and complex procedures for registering land in the land register;
- Absence of an integrated and participatory approach to rural land management;
- Lack of a formal framework for collaboration and information exchange between the DGI and MINAGRI;
- Lack of coordination of activities between the DGI and MINAGRI and its decentralized services.

**c) Land policy :**

Various actions are undertaken within the framework of the poverty reduction policy, which is considered to be one of the priorities governing the investments of the Ivorian authorities and donors in the land sector. Thus, a comprehensive land policy can be inferred from the legislation in force. That said, the populations affected by decisions are informed, but their opinions are generally not sought or taken into account in decision-making. Indeed, the 98-750 land law clearly shows that although its elaboration and vote were preceded by campaigns to collect the opinions of the populations, this law was met with great resistance from these populations during its implementation. It proves that the concerns of the affected populations were not taken into account (CHAUVEAU J.-P., BOSC. P-M. & PESCAV M., 1998). Also, the lack of political will is an important limitation to the control of the execution of the State's activities. Indeed, the formal land administrations report on their progress in implementing the land policy, but in a way that does not allow for rigorous monitoring of progress in the various areas.

#### **4.5 Dispute resolution**

The assessment of the country's performance in dispute resolution was based on two indicators:

- Are responsibilities for managing disputes at different levels clearly assigned?
- Is the proportion of land affected by litigation pending resolution low and decreasing?

The analysis shows that land disputes have increased considerably in both urban and rural areas due to the socio-economic and political stakes that land represents. The causes of land disputes are varied: disputes between members of the same family; community; between farmers and nomadic herders; between indigenous farmers and migrant farmers; between village communities and agro-industrial and mining companies; between the State and indigenous communities; and between villagers and administrative authorities. Dispute resolution is carried out according to three levels of governance (formal and informal). The first level is the traditional chieftaincy, the second is the administrative authority and the third is the judiciary. Each of these institutions contributes to the resolution of land disputes in its own area of competence. The importance of land disputes varies according to the specificities of the agricultural regions of Côte d'Ivoire. (BASSETT. T.J, 1995)

In the forest regions of the west, land disputes are very recurrent because of the agricultural dynamics around export crops such as coffee, rubber and cocoa. Chauveau, J. P. (2018).

In the northern savannah regions, land is less subject to commercial transactions because of the low level of development of export crops. The rate of disputes remains very low, apart from conflicts between farmers and transhumant herders. Also, one of the reasons for the low number of land disputes handled by the courts in this part of the country is the central role played by the traditional chieftaincy in the resolution of land disputes. For example, in Korhogo, the local chieftaincy enjoys a strong power and is the only authority empowered to resolve land disputes. At times, it is even in conflict with the administration and the justice system for interfering in the settlement of land disputes (DAGROU ,T, 2013)

## **5. CONCLUSION**

From the synthesis the panels analysed in our study, we can clearly see that there are still gaps in the Ivorian land tenure system since, in the case of this panel, with a total of 10 dimensions evaluated, 4 dimensions (40%) were given a grade of "D" , 5 dimensions (50%) with a grade of "C" and 1 dimension graded "B". Similarly, an examination of the comments made by the panelists shows that, in general, regulations and practices in terms of land governance have not changed since 2015 up today.

According to the study's findings, the LGAF has the advantage as a potential tool of land governance analysis in Côte d'Ivoire for providing specialists and many stakeholders with an instrument for understanding the shortcomings of land tenure systems and providing solutions to overcome difficulties and institutional barriers.

However, while LGAF is certainly a rich tool which touches almost all aspects of land governance, it has its drawbacks. It is difficult to apply it to all land tenure contexts in the same way, as each country has its own specific land tenure context and issues, and therefore applying a general framework to a specific problem can sometimes lead to a poor analysis. Furthermore, this same versatility of the LGAF tool makes it difficult for panelists to debate, as understanding is sometimes difficult and comments are therefore divergent.

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## 8. REFERENCES

ALERTE-Foncier,(2019) Analyses et propositions relatives au projet de la loi portant modification de la loi n°98-750 du 23 Décembre 1998 consulté dans  
<http://www.foncierrural.ci/index.php/delimitation-des-territoires-des-villages>. 10/02/2020.

Banque mondiale. (2012), cadre d'analyse de la gouvernance foncière : manuel de mise en œuvre, 308p

BASSETT. T.J (1995). L'introduction de la propriété de la terre : la cartographie et la Banque Mondiale en Côte d'Ivoire. In Blanc-Pamard C. (ed.), Cambrézy Luc (Ed.). Dynamique des systèmes agraires : terre, terroir, territoire : les tensions foncières. Paris, ORSTOM, p. 395-420. Colloques et Séminaires.

Boone, C. (2018). Shifting visions of property under competing political regimes: changing uses of Côte d'Ivoire's 1998 land law. *Journal of Modern African Studies*, vol.56, n°2. pp. 189-216. ISSN 0022-278X

Chauveau, J. P.(2018). Securing customary land rights transfers in the light of rural history and post-conflict (Côte d'Ivoire). *Tropicultura* ,vol.36, n°2, pp.346-355.

BOHOUSSOU, A. O. (2008), Gestion foncière et discipline urbanistique en Côte d'Ivoire: apports et limites du permis de construire, Mémoire de Maîtrise de recherche en géographie, Université de Cocody Abidjan, Côte d'Ivoire.

Bonnecase,V. (2001). Les étrangers et la terre en Côte d'Ivoire à l'époque coloniale. Montpellier : IRD, 57 p. multigr-Document de Travail de l'Unité de Recherche 095 ; 2.

Chauveau, J. P.(2018). Securing customary land rights transfers in the light of rural history and post-conflict (Côte d'Ivoire). *Tropicultura* ,vol.36, n°2, pp.346-355.

CHAUVEAU. J.-P (2008). La loi de 1998 sur les droits fonciers coutumiers dans l'histoire des politiques foncières en Côte d'Ivoire. Une économie politique des transferts de droits entre « autochtones » et « étrangers » en zone forestière. *Law, Land Use and the Environment: Afroindian Dialogue*. pp 154-190.

CHAUVEAU J.-P., BOSC. P-M. & PESCAV M. (1998). Le plan foncier rural en Côte d'Ivoire. Quelles politiques foncières pour l'Afrique rurale ? Réconcilier pratiques, Légitimité et Légalité. Paris, Karthala - Coopération française, pp 553-582.

Deininger, k.; Selod, h. & Burns,a. (2012). The land governance assessment framework. identifying and monitoring good practice in the land sector. 147 pages. Banque mondiale, washington d.c.

DJANE, K.A and BAMBA,A. (2020). A reading of Environmental Sociology by Riley Dunlap to understand the socio-construction of Néré: Case of Senoufos women in the North of Côte d'Ivoire. *International Journal of Innovation and Applied Studies*, vol. 29, no. 3, pp. 418–427.

DAGROU T (2013) : Les juges et les problèmes de terre, CNDJ, 1ère édition, 302p

FAO (2010). Evaluation des ressources forestières mondiales. Rapport national. Département des forêts, Rome <http://www.fao.org/docrep/013/al484F/al484f.pdf>, consulté le 20/05/2019.

HTSPE (2008). Etude sur la location et la vente des terres rurales en Côte d'Ivoire, Ministère ivoirien de l'agriculture, Union Européenne, 151p.

Ivoire-Juriste, (2017), Cours de droit foncier : La gestion du patrimoine foncier consulté dans <https://www.ivoire-juriste.com/2017/06/cours-de-droit-foncier-la-gestion-du-patrimoine-foncier-droit-ivoirien.html>. 03/01/2020

KOUAMÉ, G. (2018), La loi foncière rurale ivoirienne de 1998 à la croisée des chemins : vers un aménagement du cadre légal et des procédures ? Regards sur le foncier, no 4, Comité technique « Foncier & développement », AFD, MEAE.

Kouame et al g. (2016). Cadre d'analyse de la gouvernance foncière de la côte d'ivoire, Banque mondiale, rapport de recherche, Côte d'Ivoire.

Koutoua, A.J.P; N'Guessan, J.A ; Akou, D.V.L.(2018). La gestion du foncier au centre des conflits entre autochtones et migrants a abouabou au sud-est de la cote d'ivoire. Journal africain de communication scientifique et technologique, à paraître, pp.6477 - 6488.

Lamarche, A.A. (2019). L'accès à la terre en Côte d'Ivoire : diversité et variabilité des pluralismes. La Revue des droits de l'homme, Open edition Journals, n°16.

Oura, k.r; Zamble, j.k; Zamblé, n.a.s (2020). Geo-governance of peri-urban land conflicts in Yamoussoukro (Côte d'Ivoire). African journal on land policy and geospatial sciences, [s.l.], vol. 3, n°. 3, pp. 80-95.

Tano, M. M. E & Brou, F.R. (2020). Mariages interethniques et accès au foncier en milieu rural ivoirien : une illustration du village de nandibo 2 dans le sud de la côte d'ivoire. Akofena, n°001, pp. 767-778.

Varlet, f. (2015). Analyse de la gouvernance fonciere. Rapport pour le panel 4 : gestion des terres publiques, grain côte d'ivoire, rapport de recherche, côte d'ivoire, 56 p.

## **9. KEY TERMS & DEFINITIONS**

**Land tenure security** is the set of processes, actions and measures of all kinds, aimed at enabling holders of customary rights and holders of rights of use on the lands of the rural land estate to protect these rights against any dispute or disturbance of land enjoyment.

**Land conflict** is one of the consequences of the reduction of rural land due to demographic pressure. This pressure increases the desire and demand for this resource to the point of modifying or calling into question the original land management. At the city level, a multitude of actors with divergent issues are involved in this management and sometimes radicalize their positions. The conflicts that arise between actors in the defense of interests around these lands are called land conflicts. **(Oura et al, 2020)**

**Land Governance:** A process and institution by which land, property and natural resources are managed.