

Accountability in Land Governance A Study into the Stakes in Senegal

LANDac Research Report

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Part I: Introduction

Background and rationale

Fierce debate emerged in the Senegalese media in 2009 concerning the rural community of Mbane, where large tracks of land had been allotted to important officials and politicians. With the advent of local elections, the scandal became a national issue. Its intensity was remarkable when one realizes that the problem was not at all new. Prominent figures, in particular religious leaders (*marabouts*), have profited from large land allocations since the Law on the National Domain came into effect and rural councils (bodies of decentralized government) were set up to govern and allocate land at the local level in the 1970s.

This recent attention to land governance is interesting as it offers an excellent opportunity for both academic researchers and policy makers to put accountability in land governance (back) on the agenda. Earlier research, mainly dating from the 1990s, had already looked into the functioning of rural councils. While most studies focused on their management capacities and legal and financial means (Gellar 1997; Ribot 1999; Tyler Dickovick 2005), a few also looked into their political functioning and their relationship with the local communities in more detail (Blundo 1996, 1998; Kaag 2001, 2005b).

The present project builds on this former research on decentralized government and land issues by following it up in a context of more longstanding experiences with decentralization and changed political and economic circumstances. It does however do so by explicitly focusing on current debates on accountability concerning land use and governance at the national and local levels to identify the issues at stake, assess the social basis for improvement of accountability and explore how this could be done.

Promoting accountability concerning land matters in Senegal¹ is all the more important in view of the following:

- The country is in the process of adopting a new land law, which, among other things, will offer the opportunity to buy and sell land. The central government and the decentralized governing bodies will have an important say in these transactions. How can it be ensured that these will not only benefit large investors and state actors but also small farmers and the rural population?
- In this way, the present study also resonates with the current debate on land grabbing in Africa among academics and policy makers (Cotula, Vermeulen, Leonard & Keeley 2009). The debate mainly focuses on external actors, such as China, Saudi Arabia and South Africa. For many small farmers in Africa, however, land grabbing by 'local'² actors (entrepreneurs, politicians) tends to be an equally, if not more, pressing problem.
- Climate change and the retreat of the state from the agricultural sector have brought about changes in land use and led to new and increased competition for land and land-related resources such as water. Higher demands are thus being placed on rural councils but also on central state bodies responsible for

¹ Senegal is taken as a case study but it is expected that the results of the study will be relevant for other African contexts too.

² These can be local actors from their own community but also, for instance, from the regional or national capital.

rural development, environmental planning and agriculture concerning the governance of land questions.

- Persistent poverty is present in the rural and urban areas. A majority of the population in Senegal is still rurally based and dependent on agriculture, while urbanization is also high with the concomitant problems of land pressure and land speculation. In combination with a population growth rate of 2.56% (CIA 2011), this means that good governance of land and the environment will be crucial for Senegal's development in the decades to come.

Research questions

Accountability in land governance concerns the ways in which governing bodies and their representatives who are responsible for decisions concerning land claims, settling land disputes and drafting development and environmental plans for their territories (at national, regional and local levels) are accountable to the citizens they represent and serve. Are the latter able to control those who govern them? In other words, this is about the effective societal mechanisms of checks and balances concerning land matters. In the conviction that policy in order to be effective should adapt to dynamics present in society (Kaag 2001), this research project has aimed to identify current openings in Senegal to debate and improve accountability in land governance.

To this end, our first focus of investigation has been the *local level*. We have analyzed the issues concerning land governance among local stakeholders, such as farmers, village heads, and rural councillors. Leading questions were the following: What are the local issues concerning land governance? How are these treated by the authorities responsible? How is accountability interpreted at the local level by various stakeholders and social categories? How does this inform interaction between categories of the population and the authorities responsible for land governance? Do public debates concerning land matters at the national level have a resonance at the local level and, if so, how? How could agencies aiming to contribute to increased accountability in land governance link in to these dynamics? What are the risks and opportunities involved?

Secondly, we have focused on the *national level* by analyzing the public debate on accountability and land governance, with questions such as the following: What are the actual issues in this debate? Who are the different parties involved? What are their positions? Can coalitions be identified? What are the terms of the debate? How has it developed over time? Can points of divergence and/or convergence be identified? How could policy makers aiming to contribute to increased accountability in land governance link in to this debate? What are the risks and opportunities involved?

The answers to these questions have, through the lens of concrete issues and debates, yielded insight into current problems and ideas concerning accountability in land governance and actual and possible mechanisms of checks and balances in Senegal. We will offer suggestions on how to link current dynamics to improved accountability in land governance.

Research methodology

For research at the local level, two rural communities and one peri-urban area were selected to represent different zones and land governance issues, while earlier data were available in all the cases. The first is Yoff, a zone in the Dakar urban area. The second locality is the rural community of Ross Bethio in the north of Senegal in the Fleuve region, bordering on the rural community of Mbane. Land questions are often related to the plots assigned to farmers in the framework of the *Aménagement du Fleuve Senegal* project (Quatrida 2009; Kruis 2010). The third locality is the rural community of Kaymor in the so-called peanut basin in central Senegal. Land questions here are often related to changing land-use patterns as a result of climate change and the retreat of the state from the agricultural sector (Kaag 2001, 2005a). These cases have been selected because together they provide points on the continuum of land value, from urban land with its very high monetary value (which is stimulating ‘land grabbing’ for infrastructural and habitat purposes) to agricultural land with an increasing commercial value (encouraging ‘land-grab’ practices for agriculture) and to a more marginal area that has only low interest for investors external to the community but represents great value to local actors. What are the differences and similarities between the different cases concerning (problems of) accountability in land governance? And how do these resonate with national debates on accountability? Inversely, do debates at the national level have an effect on how local problems of accountability in land governance are perceived and treated?

Data were collected in several ways:

- A survey among 60 local inhabitants in each community concerning their land use, the land governance problems that they experience, opinions on the functioning of local and national authorities, ideas about accountability, knowledge of land legislation and changes under way, and their hopes and fears in this respect.
- Interviews with 15 councillors and 5 village heads/ward heads in each community concerning their roles in land governance, the problems they encounter in this respect, their knowledge of current land legislation and appreciation and expectations of proposed changes, ideas about accountability and mechanisms of checks and balances.
- In-depth interviews with key informants on issues that appeared as hot issues concerning land governance at the local level.

Analysis of the emerging debate on accountability in land governance in the media and policy circles was done by

- media and discourse analysis
- semi-structured interviews with key informants such as political opinion leaders, representatives of NGOs (ENDA), farmers’ associations (ROPPA), etc.
- an academic and policy literature review

For the research, we collaborated with two Senegalese organizations. The first is IPAR (*Initiative Prospective Agricole et Rurale*)³, a think tank and research NGO founded by renowned agricultural and rural development specialists from, among

³ See www.ipar.sn

others, the state agricultural research agency ISRA and the NGO ENDA. IPAR's particular expertise is in the domain of agriculture and rural development and one of its topics of study is the land reform under preparation and the possible effects for small-scale family farming. Its network is on the one hand very much rooted in rural and farmers' organizations (CNCR, ROPPA), while on the other hand it extends into the (international) policy arena, with partners like the Senegalese Ministry of Agriculture and the World Bank. We collaborated on parts of our research, which meant that IPAR for its study on large-scale land acquisitions adopted Kaymor, as one of their case study sites, while we, from our research perspective on accountability, looked at the problem of large-scale land acquisitions. The jointly organized seminar in December 2010 was used to present the outcome of our LANDac research and ongoing work by IPAR; it was also a good opportunity to study current debates on land issues in specialist circles.

The second organization is *Mouvement Citoyen*⁴, a NGO aiming to reinforce democratic values in Senegalese society through outreach programmes and research on social issues association with promising young and highly motivated researchers. *Mouvement Citoyen*'s expertise is particularly in the field of democracy and participation, and its network is based in societal initiatives and movements geared towards democratic change.⁵ *Mouvement Citoyen* provided one of the junior researchers, offered the team working space and participated in the final seminar.

In the following, we will present the results of the research in the different case-study locations, followed by an analysis of the debate at the national level. In the conclusion, we bring together both strands of the research and analyze current openings to improve the public debate. For an in-depth understanding of the Senegal case, however, we think it useful to round off this introductory part with an overview of the evolution of land law and land use in Senegal.

Land, land use and land legislation in Senegal

It was not long after independence in 1960 that Senegal attracted international attention due to its innovative land law, which aimed to reconcile customary and formal land rules coupled to an advanced plan for the devolution of state control over land to local governing bodies.

According to customary rule, land belongs to those families that first cleared it. Underlying this system is the basic territorial right that this is the privilege of the founding family of a village or clan, which is normally represented by the village chief. In most cases, land inheritance is based on the patrilineal transmission of rights.⁶ In the past, the eldest male, usually a younger brother of the deceased, was the main inheritor and it was only if there were no male representatives in one generation that land went to the next generation. This system has been transformed by the increased influence of Islamic law, and land rights are nowadays usually transmitted

⁴ See www.mouvementcitoyen.sn

⁵ The director and founder, Prof. Penda M'Bow, a former Minister of Culture, is, in addition to being an academic at the University Cheikh Anta Diop, also a prominent public figure who participates in debates on democratization, religion and gender and is important in the *Assises nationales*, a successful civil-society initiative taken in 2008 to start a national exchange and debate on Senegal's problems and possible solutions, with public hearings all over the country.

⁶ This is not the case for the Lébou community in Yoff that originally applied a matrilineal system.

from a father to his sons. Women are traditionally not allowed to inherit land, which is justified by the fact that when they marry they leave the family home.

The 1964 Law on the National Domain has turned virtually all rural land into state property, which, in turn, is given in usufruct to the farmers. The allocation or withdrawal of user rights is based on the productive use of land, and an applicant also has to live in the community (Hesseling 2009: 250-251). Within six months of passing this law, customary land owners could claim their land and register it provided that long-term use and customary ownership of it could be proven (*Ibid.*: 244-245). This however only happened in a limited number of cases, mainly because of a lack of knowledge and urgency on the part of the local population. The rule that after a death, the sons have to re-register it is generally not adhered to either.

In practice, families that were already cultivating land have been allowed to continue as before, albeit under the ultimate supervision of the state. Only when land is not put to sufficient use can it be taken away and allocated to someone else. In addition, one can claim rights to a tract of land if one has cultivated it for more than three years. This means that local land rules are recognized within the limits set by national law. Families can claim rights to their land as long as they continue to till it but fallow periods lasting more than a few years and longer-term leases can create problems in that the rural council or the temporary tenants may claim the land on the basis of national legislation.

The Law on the National Domain introduced a revised Senegalese administrative infrastructure with the creation of rural communities made up of a number of adjacent villages, as well as communes in the urban areas. The administration of these new entities lies with a rural council or municipal council of elected locals with a five-year mandate. Their task is applying the Law on the National Domain by allocating and reallocating land, and executing modest development projects covered by its own budget, which comes mainly from local taxes.⁷ The village chief still continues to play an important role at village level but his position has inevitably changed following the introduction of this new layer of administration.

The Law on the National Domain has weaknesses that have been extensively noted and analyzed in the literature on land tenure in Senegal. Firstly, criteria relating to putting land into use (*mise en valeur*) are poorly defined (Traore 1991), which makes it possible for rural councils to use the notion in a very flexible and arbitrary way when allocating or withdrawing users' rights. Therefore, a wide variety of rules and interpretations with regard to the notion of productive use of land exist at the local level (Hesseling 2009: 253). While the rural councils are democratically elected institutions, it is precisely this political dimension that results in decisions regarding the distribution of land not always being impartial and often based on political partisanship (Blundo 1998; Kaag 2001; Kaag & Venema 2002).

Another problem is that the rural councils have not been well prepared financially for their tasks. The Senegalese state is hesitant about creating a real

⁷ The introduction of these rural communities administered by a rural council in 1972 was the first phase in the Senegalese decentralization process. The second step was taken in 1990, when the president of the rural council was given greater authority to the detriment of higher levels of administration, particularly with respect to budgetary matters. The third stage was set in motion in 1996 when competencies that had previously been the domain of the central state were delegated to the rural communities, which were given greater responsibilities in areas like healthcare, education and natural-resource management.

salaried civil service at the local level due to financial constraints and the fear that the state might lose power once the local authorities are equipped to function independently. This means that local authorities have only limited resources to work with as less than 3% of the Senegalese national budget is allocated to the local authorities (Faye 2008: 5).

Finally, the current law appears outdated in several respects. The sale of land, for instance, is not permitted on the basis of the Law on the National Domain but is current practice in many places in Senegal, as will be seen in the following sections.

Projects to reform national land legislation have been in the pipeline since the 1990s. Under pressure from foreign financial backers, such as the World Bank, that called for legislative reform to develop the private sector, expert analysis of land constraints was undertaken and legislative reforms were proposed. This *Plan d'Action Foncier du Sénégal* (1996) focused almost exclusively on the privatization of land and stimulating private investors to find new financial sources at a time when the state was retreating, while the practical needs of small-scale family farmers were barely taken into account (Benkahla *et al.* 2011). While this tendency towards privatization had been mainly donor driven under the socialist regime, the liberal government, which came to power in 2000, has taken privatizing land tenure and developing agribusiness as important concerns. This was clear for instance in its *Projet de loi d'orientation agricole* in 2003 when industry- and business-like forms of agriculture were promoted based on the use of wage labour and high-level investments in technology. For this, the privatization of land and the opportunity to buy and sell land would be prerequisites. But the topic is sensitive: it runs counter to the interests of the majority of small family firms in Senegal, which makes it difficult for the government to introduce fundamental reforms. Despite ongoing preparations, the Law on the National Domain is still the law of reference. However, practices are evolving, partly due to government agricultural policies that promote land allocation to large-scale investors, population growth and evolving market forces, all of which increase the gap between rules and practices. The following sections consider what this means for the evolution of land conflicts and their solutions in Yoff, Ross Bethio and Kaymor⁸.

⁸ These case-studies have also been published as a chapter in *Land, Law and Politics in Africa*, edited by J. Abbink and M. de Bruijn (Kaag, Gaye and Kruis 2011)

Part II: Land conflicts and accountability at the local level

A peri-urban case study: the commune of Yoff⁹

Land speculation and overlapping authorities in an urban context

Yoff is today an integral part of the bustling urban landscape of Senegal's capital Dakar. Founded as a fishing village on the Atlantic Ocean by the ethnic group of the Lébou some 400 years ago, it retained its rural character for a long time. With the urbanization of the last few decades, it has become increasingly encroached upon by the city and its population has grown from 40,000 to 100,000.¹⁰ In 1996, Yoff changed administratively from being a rural community to a commune.

In the old part of Yoff, the Lébou people still account for the majority of the population, living in big compounds of up to seven households headed by a family chief. Even though fish and agricultural land are increasingly scarce, the population is still geared towards its traditional occupations. The old village is easily distinguishable from the newly established neighbourhoods in Yoff (such as Nord Foire, Ouest and Sud Foire) where people live in smaller family groupings and property owners are civil servants, staff from universities and NGOs, and migrants, who have often bought their lots illegally from the Lébou.

Land conflicts in Yoff have a long history. In the colonial period, the traditional Lébou leaders challenged attempts by the colonial authorities to acquire their land for urban expansion purposes (Laborde 1995). Conflicts within families over inheritance have existed for generations because the Lébou traditionally had a matrilineal system in which land was passed down from a maternal uncle to a nephew. Since the advent of Islam, however, the pattern of father-to-son inheritance has been promoted. As a result, disputes over land between matrilineages (maternal cousins) and patrilineages (sons) frequently occur.

Land issues are becoming progressively more complex as a result of the increasing monetization of the value of land due to urbanization. In addition, the institutional landscape concerning land issues has come to include various traditional authorities, Islamic leaders, the community council and the central state. All play a role but none has hegemony over the others. Instead, there is an overlap and intertwining of authorities that leads to competition and rivalry, and a subtle game of coalition-making. Finally, the precarious position in which many urban families find themselves, combined with processes of individualization, are resulting in land being an essential means of acquiring wealth for many in Yoff. They may make money by selling plots for multiple uses (habitation, commerce), while renting out buildings and single rooms is also lucrative as the area is close to the centre of Dakar and easily accessible. It is also close to the airport and attracts staff working there and all kinds of services and enterprises for whom proximity to the airport is important.

The traditional Lébou social and political organization is still strong. According to customary law, the family who cleared the land owns it. At village level, the village chief (*djaraff*) is the central authority but his power is held in check by the *ndeji-ji-rew*, who handles internal village matters as a kind of Minister of the Interior (Laborde 1995), and the war chief (*saltigué*). The council of notable elders, and a

⁹ Fieldwork in Yoff was executed by Yaram Gaye between August and October 2010.

¹⁰ Interview with staff at the local Public Records Office in Yoff in 2010.

council of younger notables aged between 55 and 65 (*frey*) are the other important pillars of the system. This traditional system still functions, albeit that through political cleavages Yoff at times may have several *djaraffs* and *ndeji-ji-rew* (Laborde 1995), each contesting the other's authority. In addition, the *frey* in Yoff seem to have gained in importance and influence to the detriment of the older notables (Laborde 1995; Billaud 2009).

Another pillar of authority is constituted by the religious leaders of the Islamic Sufi order of the Layennes. This order was established by the Yoff-born Lébou *marabout* Limamou Laye at the end of the 19th century.¹¹ His mausoleum is in Yoff. The present *khaliffe* also resides in Yoff. The Layennes are almost exclusively Lébou. The Layenne *marabouts* play an important role in local social and political life. Rivalry with the traditional authorities, like the *djaraff*, has been common, for example when it comes to negotiating with the (colonial and post-colonial) state. Finally, with the Law on the National Domain and the subsequent decentralization process that turned Yoff into a rural community and then a commune, another layer of authority has been added.

It is not surprising that, with land values increasing, the political dynamics surrounding land issues and the power play between the different authorities are becoming increasingly intense. It is important for politicians to maintain their position and win as many votes as possible at election time. The customary authorities, for their part, are trying to secure allies within the administration to handle their land interests. They feel that the Law on the National Domain has severely weakened their control and rendered them dependent on the whims of the administration. The municipal authorities, even when they act within the law, are often placed in a difficult situation that requires tact on their part. If they do not take into account the demands of Lébou families (supported by their notables), they have to reckon with serious resistance. This is all the more problematic because the customary leaders are strategic partners in the execution of all kinds of municipal activities, such as the mobilization of the population for public manifestations, and bad relationships with the customary authorities may result in the loss of votes on election day.

The following case illustrates the complex interaction between the different authorities in land matters in Yoff.

The APECSY (Association pour la Promotion Economique et Culturelle de Yoff) was set up in the 1970s as a community association by educated youngsters¹² supported by the frey Yoff. With the support of the khaliffe of the Layennes, APECSY received authority from the state to give out and manage 1160 new lots in the Yoff extension zone in 1996. Everything went well, according to the association's representative, until 2006 when the notables of Yoff, under the guidance of the djarraff, criticized the group's management because they said there was a lack of transparency in the assigning of plots. In addition, they claimed the association had bought land for FCFA 1 million and sold the plots for FCFA 18 million to FCFA 25 million per parcel. From then on, the conflict was out in the open and the contesters subsequently got

¹¹ For an in-depth analysis of the Layenne Sufi order, its religious characteristics and social and political clout, see the excellent study by Laborde (1995).

¹² In the Lébou gerontocratic system, this can be anybody under the age of 55 (Billaud 2009).

hold of plots that, the association said, had been destined for public infrastructure projects. The matter went to court but has not yet been resolved. APECSY members claimed to be astonished by the course of events as the final allocation of a plot by APECSY had been in 2001. When asked, inhabitants thought that the djaraff, in all good faith, had initially wanted accountability and more transparency but that later, influenced by others in his camp, he had allowed them the appropriation of the last tracts of land in the extension zone. The people remain divided about the whole issue. Those living in the extension zone say they are quite satisfied: they had never thought of having a house of their own, but thanks to APECSY they now have one. Others claimed that they did not understand how the state could give an organization like APECSY such a mandate on the sensitive issue of land allotment. An official at the préfecture thought that it had been a 'poisoned present'.

This case can be interpreted as an example of competition between different traditional authorities (*djaraff, frey*) and between the traditional authorities and the youth who are excluded from the traditional hierarchy but who have gained in power because of their good relations with the state and their ability to adapt to the modern environment of national state bureaucracy, and also due to their good relationships with the *khaliffe* of the Layennes (with whom traditional leaders generally had an antagonistic relationship). From the point of view of the state authorities and national politicians, the authority given to APECSY indeed seems to be a present to grease patron-client relationships. The non-transparency of the rules and criteria concerning the allocation of the plots by APECSY hints at another layer of clientelism.

The allocation and status of plots is a more general problem. Our field research demonstrated that there are many problems related to the identification of real rights over land, and surrounding the various transactions made on the land market, which has developed over the last few years. Various actors are active here: Lébou land owners and brokers, high-level officials who through their work often have a good knowledge of commercial opportunities, investors in housing, migrants and other new elites looking for land on which to construct a home, and state agencies in need of land for urbanization and construction projects. The illegally acquired plots and the houses that are constructed without any adherence to rules and regulations (such as cadastral plans, required provisions) lead to many conflicts, for example in new neighbourhoods built near, or even on, the strip of land that ought to be left empty as it borders the airport. People build their houses too close to each other or even on public roadways, and an informal acquisition from a Lébou may lead to a conflict with another member of the same family who wants to reclaim the plot as family land. Often the municipality tries not to become involved for reasons of politics or sensitivity but the state sometimes dispossesses and/or destroys houses that are the object of serious dispute. However state officials may just as easily reassign the same plot to others, a practice that generates anger amongst the local population.

The local Lébou are also adding to the confusion and complexity themselves. While land until quite recently was considered as patrimonial and inalienable, it is nowadays sold and rented out. Many feel that the Law on the National Domain has resulted in the Lébou losing a great deal of land, a large part of which has over time

been taken by the state for urbanization purposes.¹³ As a consequence, a number of the Lébou sold their land illicitly before the state could use it for its own plans.

These monetary transactions, particularly sales, are most often taking place in non-transparent ways, not only from the perspective of the buyer but also in view of the seller's family members. In the past, patrimonial land had been managed by the head of the family but increasingly, and helped by registration under the Law on the National Domain,¹⁴ family representatives may use land as their own personal property. A family representative may for instance sell land without reporting the fact to his family, or inform them but not evenly distribute any profits between those who, from a customary perspective, are co-proprietors. The precarious situation in which many families and individuals find themselves can lead to short-term calculations and the selling of land in order to meet immediate urgent financial commitments but to the detriment of longer-term family interests.

In the following section, we will see that the increase in the commercial value of land is not confined to the urban areas but has also had an important impact on land conflicts in the rural area of Ross Bethio.

The Senegal River Valley: Ross Bethio¹⁵

Outside investors contribute to a complexification of land conflicts

Ross Bethio is in the fertile Senegal River delta in the north of Senegal. The population's income comes from agriculture, fishing and cattle. Given its sufficient water resources, the area is suitable for agriculture all year long, and is well known for its *riziculture*, the large-scale production of rice. For the development of the latter, the parastatal organization SAED (*Société d'Aménagement d'Exploitateurs des Terres de Delta*) was established in the 1960s. Its role was to prepare land for cultivation and redistribute it amongst the local population. Under pressure from the structural adjustment programmes implemented by the World Bank and the IMF, SAED was severely cut in the 1980s. In 1987 its activities regarding the distribution of land were transferred to the rural community of Ross Bethio¹⁶ although SAED continues to offer technical assistance (Quatrida 2009: 64-65).

Ross Bethio covers two ecological zones: the *walo* (the fertile zone along the river where land was allocated under SAED's supervision) and the *diery*, the drier zones further away that are often traditional family lands. Most land in Ross Bethio has been acquired through inheritance of customary family land, allocated by SAED or assigned by the rural council. The chances of obtaining land in these ways are not evenly distributed among the population, and women, youth, and migrants who are not important *marabouts* or politicians, have particular difficulty in accessing land and have to resort to alternative strategies. Some simply start working on 'abandoned' land, with the risk that the owner will turn up at harvest time. If people have sufficient financial means, they may rent land (about FCFA 60,000/65,000 per hectare per year,

¹³ The Law on the National Domain states that the state may withdraw land from the national domain for the good of the public or for general interest (Hesseling 2009).

¹⁴ Registration is normally done under an individual's name.

¹⁵ Fieldwork in Ross Bethio was executed by Marieke Kruis between August and October 2010.

¹⁶ The rural community of Ross Bethio was restructured in 2008 and became the urban commune of Ross Bethio and the rural communities of Diama and Nguith.

depending on the distance from a source of water) or buy a plot with *remboursement de peine*. This type of transaction involves the informal purchase of an allotment where the investments that have been made on the land are refunded in addition to a fixed price per hectare. The aim is to have the transaction legalized with the rural council afterwards. Wealthy farmers who want to enlarge the area they have under cultivation may also resort to renting land or to buying official allotments.

Purchasing land is thus common practice in Ross Bethio and is accepted by all parties, including the local state authorities. Negotiations are an important strategy for accessing (additional) land and resolving land issues. Conflicts frequently arise because people do not have written proof of informal transactions. In such cases, provisional solutions are often negotiated. The relative weight of the different parties in such processes depends very much on their position in the local hierarchy. This is well illustrated by the following case, in which a local female agrarian entrepreneur opposed a local Mouride *marabout*. Both parties in the conflict were important in the community: the entrepreneur is the wife of an imam and one of the few female farmers with a significant amount of land and, in this sense, is a female pioneer. At the time of the fieldwork, she was cultivating 80 ha of rice. The *marabout* is one of the biggest economic players in Ross Bethio, cultivating about 350 ha. Given the people involved, this conflict is one of the more important cases in Ross Bethio.

The conflict revolves around 140 ha of land that the woman bought from a third party 'avec remboursement de peine'. She indicated that she had started out with the strategy of obtaining land in 1992 when she bought 5 ha for FCFA 25,000. Three years later she bought another 40 ha for FCFA 60,000. She explained that she was motivated by the wish to provide long-term financial security for her ten children. She had explored this alternative strategy because the official channels of the communauté rurale did not offer women the chance to access land at the time. She eventually sold the 45 ha she had started working on, and bought 250 ha under the same conditions. She financed 50 ha of this land herself, while purchasing the other 200 ha with the help of her son, who lives in Italy. The dispute between the female entrepreneur and the marabout revolves around 140 ha of this land.

At the time the woman bought the land from a third party, she did not check at the communauté rurale in Ross Bethio whether the vendor had official ownership of the land. Moreover, the déclaration de vente that she received at the time of the sale was never regularized and put in her name. In spite of all these legal insecurities, the woman paid the vendor an advance of FCFA 500,000. This was part of FCFA 5 million that were provided by her son in Italy, who also bought two machines to prepare the land for agriculture. After making the down payment, the entrepreneur prepared part of the land and started to cultivate onions. After the first harvest she handed over the remaining FCFA 4.5 million to the vendor.

According to the woman, the problems started at this point, when she was getting ready to prepare the rest of the land. One of the marabout's employees came to see her, claiming that 140 ha of the land she was preparing for the cultivation of rice belonged to the marabout. According to him, he had been given user rights to this land in 1989 by the former communauté rurale of Ross Bethio. He claimed he had the papers to prove it. When he asked the female entrepreneur to show him an official document from the communauté rurale, she was not able to do so. The marabout claims that the woman told

him that she had noticed that no one was using the land and that she had just started working on it.

The female entrepreneur was summoned by the rural council but the only thing she could show the authorities was her déclaration de vente. She then tried to settle things informally with the marabout but he claims that all his papers are in order and refused to give up the land. At this point the woman turned to the police, who directed her towards the sous-préfet, who tried to contact the land committee of the rural council but could not reach them. The sous-préfet ordered all work on the disputed area of land to be put on hold immediately. According to the woman, the marabout respected this order for a week but then started cultivating the land. The marabout himself claims that he has the right to work the land because the case has been closed. The woman, however, claims that she is still waiting for the case to come to trial.

The case of the *marabout* and the female entrepreneur highlights the hierarchies of power in a rural community and how they influence people's access to land. Even if the woman is a relatively wealthy farmer, she seems to have little chance in the face of the *marabout*, who has close relations with the political authorities and the court.

Increasingly, however, competition and conflict over land are no longer restricted to local parties as investors from outside the community are becoming interested in the agricultural opportunities in this region of Senegal. The agricultural policies of the Wade government, particularly the GOANA initiative (*Grande Offensive Agricole pour la Nourriture et l'Abondance*), have been influential. This programme was launched in 2008 to develop Senegal's food security by promoting rice, maize and millet and offering subsidies on fertilizers and equipment. All rural communities were asked to contribute 1000 ha of land to the execution of the programme and, when distributing the land, to give priority to those with the means to cultivate it. In addition, the President declared that 'Ministers, high-level officials, directors and business executives are invited to cultivate minimally 20 ha and there is no upper limit'. This led to massive allocations benefiting political and religious dignitaries, both from the communities themselves and from outside. There are numerous stories about land having been taken from local farmers and given to important outsiders although there are indications that not all the beneficiaries planned to contribute to the goals of the GOANA but were using the opportunity to acquire land for other (speculative) purposes (Faye *et al.* 2011: 10-11).

Investors from abroad have also recently shown interest in large-scale land acquisitions in the area to develop food crops and biofuels, a move that can be related to the so-called 'global land grab'. In Ross Bethio, 500 ha have been allocated to a private company under joint French, Moroccan and British ownership, and 110 ha to an Italian company (Faye *et al.* 2011: 23). In addition, a Nigerian company has been allotted 40,000 ha to cultivate sugar cane. Negotiations with a Chinese company are still underway (interview: Ross Bethio 2010).

The following case shows how existing hierarchies in the community shift with the arrival of wealthy entrepreneurs from outside.

One of the parties in the conflict is a very wealthy man in Ross Bethio who has 120 ha of rice under cultivation. He came to Ross Bethio to pursue large-scale rice cultivation in the 1970s using capital he had earned in commerce and the

transport sector in Dakar. The entrepreneur is currently involved in a dispute about 500 ha of land with a GIE (Groupement d'intérêt économique) called UGIED (Union des Groupements Intérêts économiques du Delta), an alliance of fifty GIEs made up of about 300 men and women. According to the entrepreneur, the 500 ha were assigned to him as an affiliate of UGIED in 1999. The land is part of a bigger area of 7000 ha (divided into 8 areas) that was allocated to UGIED in 1989. As this zone of Ross Bethio is a long way from a source of water, the members of UGIED have not been able to cultivate the land. When GOANA was launched in 2008, UGIED planned to create irrigation channels to prepare the 1200 ha in Ross Bethio for cultivation. To execute such a project, UGIED looked for partners with the president of the rural community of Ross Bethio, and an outside investor from Dakar was soon found. This partner was promised 500 ha for his own personal use if he would prepare the rest of the UGIED land as well.

As soon as work on the land began in 2008, the conflict started to unfold. At this point, the entrepreneur from Ross Bethio came forward, claiming that the 500 ha awarded to the investor were in fact his land. The entrepreneur claimed that he was a member of UGIED and that he had had the land allocated to him since 1999. According to him, he had paid FCFA 10,000 per ha. When he acquired the land, however, he did not have the financial means to work it. A representative of UGIED claimed that the entrepreneur was never part of UGIED. According to him, all UGIED members are known at the national office but the man has never been registered. Moreover, he pointed out that the entrepreneur claimed he had had the land since 1999, while the land had been assigned to UGIED in 1989. The biggest complaint by UGIED is that they risk losing a harvest as the authorities have summoned them to stop working the land because of the pending conflict. The case is currently with the court.

This case shows that claims to land are not often well documented and that this is increasingly becoming problematic as the stakes in land become higher. In addition, it seems as if the outside investor has been more powerful than the entrepreneur from Ross Bethio. While in a case limited to local-level actors the latter would have a good chance of winning due to his status, with the advent of outside investors, hierarchies change and so do the dynamics of conflicts and their possible solutions.

A marginal zone in Central Senegal: The rural community of Kaymor

An intensification of conflicts but (still) restricted to the local level

Kaymor is a rural community some 20 km north of the Gambian border in the Kaolack region and the department of Nioro du Rip. Its location, behind the natural barrier offered by the Grand Baobolon River and with only a connection to the tarmac N4 road by a laterite track, makes access rather difficult.

The main means of subsistence are agriculture and livestock husbandry. Millet is the most important subsistence crop. Peanuts were introduced as a cash crop in the colonial era and have remained the area's most important crop despite the dismantling of the state agricultural extension services in the 1970s and 1980s, and the failure to

set up a more efficient private system for peanut cultivation and commercialization in the 1990s. Both millet and peanuts are grown on the higher sandy soils where family fields were traditionally situated. In the 1970s, people started clearing land in the valleys with their heavier clay soils for the small-scale cultivation of rice and vegetables (Kaag 2001, 2005). Rich farmers may have large herds of up to 100 cattle, while poor ones may have only a few sheep and/or goats. The extension of agricultural lands over the last decades means that increasing competition between agriculture and husbandry has developed.

Important problems are growing land scarcity, serious wind and water erosion that has resulted in the formation of large gullies, and reduced soil fertility. After the withdrawal of the state from the agricultural sector in the 1980s, many farmers have encountered difficulties in paying for seeds and fertilizer.

Most people in the community are Wolof although some 10% are Toucouleur. According to customary law, land belongs to those families that first cleared it. Apart from these hereditary rights, several temporary rights to land have emerged. Firstly, a family could lend out a piece of land for a period of time that was limited but not agreed on beforehand and the person who received the plot in usufruct was not obliged to pay. This occurred when a family had more land than it could cultivate at a certain time. The practice was called *dink*. Another was called *dogal*. In this case, the duration of the loan was clearly determined in advance (usually one year) and some form of payment was involved. In addition to these practices, land is also distributed within the family. The land that is distributed each year by the head of the family or household to his dependents is given in *abal* (Venema 1978).

The introduction of the Law on the National Domain has not had much effect on customary rule and practice. Family lands are still not usually registered, nor are most of the newly cleared plots in the valley. However a few are officially registered, such as the orchards of the village chief and the imam of Kaymor, for which the *sous-préfet* financed a well on condition that the land would be registered. Some women's groups also registered their gardens with the rural council when they started to work with a foreign NGO. Registration is still rare though and the almost total lack of virgin land makes allocation by the rural council practically impossible. An area in which the Law on the National Domain has had an impact, however, is on the granting of long-time usufruct rights, such as *dink*. The latter has practically disappeared as land owners do not want to risk the other party claiming the plot after cultivating it for three years.

The rural council, set up in 1974, was initially composed of the old elite and representatives of noble families, and as such acted in a unified manner. It functioned very much as a customary council of the elderly, for whom working towards consensus was a common strategy. It was only in the mid-1980s that factionalism started to emerge in the community when national politicians started to look for local clients. This led to a council in which all members were from the ruling *Parti Socialiste* at the time, but were divided into Faction A and Faction B, each linked to a national PS politician. It was also in this context that the first people of slave or caste origin and/or of Toucouleur background made it onto the rural council. Factionalism thus permitted certain social categories to gain seats on the council. However, factionalism also led to a weakening of the council's power, as the councillors no longer spoke with one voice (Kaag 2001).

Some fifteen years ago, most land conflicts were concerned, firstly, with problems of inheritance within a family (usually between brothers) and, secondly, with conflicts between cattle holders and farmers about cattle going on to the fields

and the delimitations of cattle paths. Most disputes were solved within the family or with the help of the village chief or one or some rural councillors. Provisional and open-ended solutions were normally devised in order to prevent people losing face in the local community and not to endanger local peace. If the help of the council was requested, often only councillors from the majority faction were called on, which resulted in decisions being very one-sided. This evidently led to supporters of other factions not taking issues to the council for resolution.

In 2010, the most frequent conflicts were still those between herders and farmers, and inheritance problems within families. There seems to be a certain hardening of conflicts, however, because alternative options for acquiring land are increasingly difficult to find. In the past, people could migrate to the Casamance in southern Senegal where land was still available. People are however now starting to come back as it is becoming more difficult to obtain land there. As a result of a rush towards land in the valley that can be partly explained by the collapse of the organized cash-crop sector, the valley has been entirely cleared since early 2000 and all the reserves on the territory have been exhausted.¹⁷ Since then, increasing numbers of conflicts between farmers over plots in the valley have been reported, with some farmers trying to claim other people's land there by simply enlarging their own area under cultivation, for example by moving the demarcation signs between the plots. Despite the fact that these conflicts often concern small areas, they can have a big impact, as is shown by the following case.

The village chief of Kaymor was the first person to clear a plot in the valley in the early 1970s and to start an orchard. As a former World War II combatant and a police officer in different parts of Senegal, he had visited many places and his experiences had helped him see the possibilities for horticulture in the valley. The local people did not see any agricultural value in the valley and it was only when they saw that production was good that they themselves progressively started to clear land for themselves. Nowadays, the valley is entirely under cultivation and makes up a small but qualitatively important part of people's property. The soil is fertile and offers the possibility to diversify crops and cultivate beyond the rainy season. The village chief worked in the orchard, which produced well, and his son continued to do so after his father's death at the end of the 1990s. He had just been elected president of the rural council at that time. The village chieftaincy went to the oldest male representative of the next generation, the son of the deceased village chief's brother. When the son of the former village chief was not re-elected president of the rural council in 2002, the family of the new village chief started to claim part of the land adjacent to the orchard. (The orchard itself had been one of the rural council's first allocations - the previous village chief had asked for official recognition in order to dig a well.) The conflict concerning the ownership of the plot has not yet been settled but has resulted in increasing alienation within the extended family. The cousins in both lineages who used to be good friends are now trying to avoid one another.

In spite of the increasing pressure on land and regular conflicts surrounding it, these are restricted to local actors and can normally still be settled at the local level, within

¹⁷ The rural community was thus also not able to respond to the President's call to contribute 1000 ha to activities in the framework of GOANA (Faye *et al.* 2011).

the family or by involving the village chief or asking rural councillors to mediate. This holds true particularly in the smaller villages of the rural community. In the village of Passy Kaymor, for instance, people who had migrated to the Casamance in search of land but returned after a few seasons were given tracts of land to cultivate by their fellow villagers after communal deliberations within the village. This solution was facilitated by the village being small and consisting of only a few families. But in larger villages too, people have to live with each other and by not allowing conflicts to reach a head, try to maintain a certain degree of peace.

Discussion: Land conflicts and accountability at the local level

The case studies show variety in the character and intensity of land conflicts and the degree of tenure security people have.

Conflicts in Kaymor seem to have become more intense recently but still remain confined to the local level as the area does not have any spare land and does not have any other assets at its disposal that could interest outside actors. The local system still appears to be providing sufficient tenure security.

In Yoff, there is clearly huge pressure on land but with the high numbers and diversity of actors involved and various authorities and institutions having power in land matters, no one party seems to have the upper hand. All the actors need to continuously negotiate and look for allies in land issues. Everybody seems to be in an insecure position which, paradoxically, offers a buffer against the unbalanced exploitation of some by others.

Particularly in Ross Bethio, insecurity has increased greatly due to the arrival of outside investors in the context of the GOANA initiative. The state, rural councils and outside investors appear to have similar interests in developing large-scale agriculture that do not correspond with those of the small-scale farmers who are seeing their claims to land vanishing in the face of powerful competitors.

The case studies in this report also clearly indicate that there are problems of accountability concerning land issues in present-day Senegal. At first sight, these appear to be rather diverse: in Yoff, for instance, a lack of accountability is exacerbated by the multitude of authorities having a say in land matters, and at different levels, in combination with the fact that the commercial value of land has risen tremendously over the past few decades. In Ross Bethio, authority seems to be less confuse but here too the increasing value of land and the arrival of outside investors make accountability mechanisms fragile and prone to corruption. In Kaymor, problems are restricted to local actors but a lack of accountability is also evident in the political management of the rural council and the lack of knowledge among the population and rural councillors concerning their rights and procedures.

In general, it can be concluded that many problems regarding the resolution of conflicts over land are related to the question of accountability. At the level of the decentralized authorities, no account of their actions is given and the populations do not ask for such accounts either. The resolution of conflicts is predominantly by negotiation rather than by the strict application of the law. This leads to power positions becoming very important as they determine the relative weight of the parties involved in the negotiations. The accounting of the councillors is particularly directed towards their political party and less towards the population, and there is a general

lack of knowledge among both councillors and the local population about the council's tasks and the rights of the populations. Finally, the many talks with different stakeholders during the fieldwork have revealed that different ideas about accountability exist.

In fact, two basic models of land conflict resolution can be distinguished:

	Socially focused model	Individualist model
Objective	Peace in society	Securing individual rights
Strategies	Consensus seeking, flexible and provisional solutions	Cadastre, fixed and written property rights

In the 'social model', the responsible administrator is the one who works towards social peace, while in the second model, the responsible administrator is the person who applies the law and works towards securing individual rights. A large part of the population wants to return to the authority of the village chief, who is considered to be the guardian of peace in (local) society. Some respondents, mainly people with a relative high level of education, expressed the idea of the establishment of a cadastre. The latter solution is part of the individualist model, and in fact is not very well adapted to current strategies for resolving land conflicts in Senegalese society.

The cases however also illustrate that the stakes are changing in such a way that the strategies belonging to the first model are no longer functioning correctly. This does not mean though that the objective of this model, directed towards social peace, is no longer valid. Land reform under current conditions would ideally strengthen the capacity to both furnish social peace and secure individual rights. In our view, it is up to the populations and decision makers to find viable strategies to arrive at this. For this, a public debate would be necessary. Part III, looks into current practices of dialogue and public debate on accountability in land governance in more detail.

Part III: Public debates on accountability in land governance

Introduction

The different case studies have demonstrated that real problems of accountability exist at the local level, something that is confirmed by the literature on land issues in Senegal more generally. This part of the research report analyzes in more detail whether these concerns and problems resonate in public and policy debates at the national level, more particularly in academic, policy and political circles and in the media.

If one intends to analyze the debate on accountability in land governance in Senegal, it is useful to recognize that two different but interwoven ongoing debates play an important role: the debate on the reform in land legislation and the debate on administrative decentralization. Decentralization policies have significantly influenced the execution of the Law on the Domain National. As mentioned earlier, the rural councils are often not properly equipped in terms of manpower, financial means and the legislative and procedural knowledge to do their work properly. A re-evaluation of the implementation and execution of administrative reforms is therefore part of the public and academic debate on accountability in land governance. A third debate that recently gained prominence is the debate on land grabbing, a debate that up till now has had a more sensationalist character and has focused on quite isolated cases but in which questions of accountability are important elements. The following section discusses how and by whom these debates are being pursued, and what they are yielding in terms of analysis and recommendations.

The debate on land reform and decentralization

A multi-stakeholder debate?

The debate on land reform and decentralization has a long history but gained (new) prominence in the 1990s. It is mainly a policy debate and one in which policy makers as well as civil-society organizations and academics are participating. Much of the debate is directed towards reforming the current Law on the National Domain.

As mentioned in Part I, projects to reform national land legislation have been around since the 1990s. Under pressure from donor institutions, such as the World Bank that called for legislative reform favouring public-sector development, a pilot committee was set up in collaboration with the Ministry of Agriculture's *Unité de Politique Agricole* (UPA). Expert analysis of land constraints was made, followed by a proposition for legislative reform. The land-reform process, which was launched in 1996 with the *Plan d'Action Foncier du Sénégal*, thus focused almost exclusively on land privatization and stimulating private investment to find new financial sources in a time when the state was pulling back.

The debate on the contours of a new land law in this phase was mainly being pursued by the Senegalese government and international donors. Senegalese farmers' and rural organizations, while officially well organized, were practically invisible in the reform debate, in spite of the fact that *the Conseil National de Concertation et de*

Coopération des ruraux du Sénégal (CNCR) was invited to participate in the pilot committee (Benkahla *et al.* 2011: 160).

In 1999, the three scenarios proposed by the *Plan d'action foncier* (status quo, liberalization and a mixed option) were submitted by the state to its partners: locally elected officials (rural councillors), producers' organizations and the private sector. While the rural councillors pronounced themselves in favour of the mixed option with a strengthening of the powers of the rural councils after internal deliberations, the CNCR asked for some time to consult with the grassroots. This was approved and in 2001, the CNCR organized 50 local seminars in almost 200 rural communities. The workshops were intended to lead to a better understanding of the issue and to involve family businesses in the reform project. To be accessible to as wide an audience as possible, they were held in local languages and all the participants' expenses were covered. The invitees were representative of the population, with women and youth being specially included as were minority groups, the presidents of the rural councils, village chiefs and local imams (Benkahla *et al.* 2011: 22). A synthesis of all the workshops, containing eleven propositions, was presented to the national authorities. The propositions were as follows:

1. The installation of non-negotiable user's rights for those who have an official attribution (*affectation*);
2. The creation of a local market for user's rights, which should be able to be sold, rented out or freely transferred within a local framework;
3. The installation of a tax *d'aménagement* on land that has been prepared for agricultural activity through public funds;
4. The creation of the possibility to transform user's rights into official land titles;
5. Giving the right of first refusal to the *commune* or the *communauté rurale*, and the creation of '*fonds fonciers*' meant to buy land for small-scale farmers who want to enlarge their business or for youth who want to establish a business;
6. The creation of village committees who take care of delimitations of the fields, settle minor land conflicts;
7. To reinforce and further clarify the competences and capacity of the rural councils;
8. The creation of an official land register on the level of each *commune* and *communauté rurale*;
9. The national implementation of '*Plans des occupation et d'aménagement des sols*'. (POAS);
10. The creation of a '*fonds national d'aménagement foncier et de remembrement*' to finance the POAS, and other programs of *aménagement*, redistribution and management of rural communal land;
11. The development of exploitation contracts for the national resources of all non-officially distributed land. (Benkahla *et al.* 2011: 23-24)

There has never been an official response to these propositions from the government. Since 2005 several other committees have been set up to prepare a land legislation reform. The *Direction de l'Analyse de la Prévision et des Statistiques* (DAPS) at the Ministry of Agriculture has set up a theme group to work on land issues but it has experienced difficulties getting started as the ministry staff do not have the knowledge of land issues required and particularly lack the juridical competence to reflect thoroughly on land legislation (Benkahla *et al.* 2011: 26). Around the time the DAPS

theme group started work, the president announced that a *Commission Nationale de Réforme du Droit de la Terre* would be created and be in charge of preparing a legal land reform. A major problem was that, in spite of the fact that they were mentioned in the president's decree, the national agrarian organizations were not included in the project. Although the CNCR has publicly condemned this situation and has had several meetings with the president of the committee, it does not take part in its meetings and will play no part in advising the presidency regarding land legislation reform (Benkahla *et al.* 2011: 26).

Organizations such as IPAR, in collaboration with the CNCR, and the NGOs Action Aid and Enda Pronat, are working on the return of agrarian organizations and their interests in the debate on land reform, with the specific goal of protecting smallholder farmers. Agrarian organizations have also initiated concrete forms of protest to the propositions of the national committee in charge of land reforms, especially regarding their bias towards large agricultural players. In 2008, for example, a three-day consultation process was organized for the members of the CNCR to protest against a committee's proposition for the creation within each rural community of vast state-owned investment zones for intensive agriculture, destined for big investors. 'Indeed, if rural communities do not become involved, although such reform might generate rural employment and boost commercial agriculture, it will probably condemn succession access or kinship land inheritance and might deny access to land for poor smallholding farmers and jeopardize food security.'¹⁸

Although agrarian organizations are trying to create national awareness of reforms in land legislation and encourage participative debate on these issues, farmers are in general poorly organized and are often not aware of their economic and political weight. According to juridical researchers specialized in land issues at IPAR and the Cheikh Anta Diop University in Dakar, the debate on these issues is restricted to intellectuals and experts. Only rarely does this trickle down to the lower echelons of society. This has been confirmed by our own findings at the local level. Knowledge of the deliberations on land reform going on at the national level is virtually absent among local farmers and even among rural councillors. This means that claims by organizations that they represent small-scale farmers has to be taken with caution. In addition, the debate is often pursued with like-minded people and organizations: farmers' organizations and NGOs tend to discuss matters amongst themselves at seminars, while state actors and the international donor community form a forum of their own.

The work of the committee charged with land reform thus remains far removed from the daily reality of the Senegalese population. Initiatives such as the CNCR workshops are to be found but participants' propositions are not necessarily being adopted in the decision-making process. Moreover, there are reports in the Senegalese media on land conflicts and land reforms that are in the pipeline but they remain fragmented and the complexities of the issue do not generally reach a wider audience. Conflict over land is a subject regularly featured in the media. The majority of informants in Yoff, Kaymor and Ross Bethio indicated that they often heard of conflict across Senegal on the radio or television or in the newspapers. But coverage

¹⁸ *Senegal: Farmers protest against a land reform proposition that carries the risk of land grabbing by the State and rich people*, ILC (International Land Coalition) Newsletter, December 2008.

is frequently limited to the description of isolated cases, without any analysis of the mechanisms involved or any possible solutions.

The political sensitivity of national land reforms

Most of the above-mentioned governmental initiatives have never been developed or have been put on hold. The current confused situation concerning land claims often works to the advantage of governmental actors, as we have seen in Part I. As is also pointed out by A. Dieye, a land-rights specialist at the Law Faculty at the Cheikh Anta Diop University in Dakar, the authorities often circumvent the law. Land in the public domain can, for example, only be transferred into the state's private domain through a national decree that is authorized by Parliament. In practice, however, the presidency has transferred and sold land in the national domain without Parliament's authorization. In addition, the national authorities often assign land in the public domain to investors, while land allocation within the national domain should be managed by local authorities.¹⁹

Some informants in Dakar claimed that Wade's government is trying to reform the land laws before the 2012 elections, guaranteeing some sort of privatized ownership in order to legalize and safeguard its own (illegal) land sales.

The sensitivity of the topic of land reform is not just based on the (suggested) involvement of politicians in (illegal) land transactions. Politicians remain hesitant about tackling the issue of land reform due to electoral considerations. According to Faye (2008: 13):

Jusqu'à présent, l'Etat privilégie une approche technocratique en faisant appel à des experts alors qu'il s'agit d'abord de définir les enjeux d'une nouvelle politique, d'une nouvelle législation foncière et des codes régissant les ressources naturelles; avant donc de demander aux experts de mettre en forme les choix négociés par les acteurs, il est essentiel de préciser pour quoi et pour qui on veut changer les choses.

The debate on 'land grabbing'

The phenomenon of large-scale land acquisitions by (outside) investors is receiving a great deal of attention from academic researchers, national and international think tanks and NGOs. In Senegal, discussions on this theme are mainly focusing on the protection of small-scale household farming and food security.²⁰ Organizations such as IPAR, CNCR, Action Aid, CERFLA and ENDA have conducted numerous studies and held consultations with stakeholders on the issue (IPAR 2011). The general consensus among these actors is that the authorities' focus on private investment does not benefit the majority of the local population in terms of employment nor does it guarantee a balanced development of the agricultural sector. Large-scale agricultural investors are mostly focused on exports. Foras, a Saudi investment group that is in negotiations with the Senegalese authorities, is reported to be 100% focused on food

¹⁹ IPS, 13 April 2010: *Africa: Land grabs continue as elites resist regulation.*

²⁰ APS, 13 October 2010: *Le Sénégal fait partie des pays dont la sécurité alimentaire se détériore.* Le soleil, august 4, 2010 : *Securite alimentaire : des experts et organisations demandent un soutien à l'agriculture familiale.*

production exports to Saudi Arabia.²¹ Similar stories were found in IPAR case studies in Ross Bethio.²² These studies were part of an IPAR research on large-scale land acquisitions across Senegal to map the current activity in the rural communities, the strategies that investors are applying and the effects of these developments on local communities.²³

There have also been more concrete actions, especially regarding the mobilization of farmers' organizations. A recent example is a 2006-2010 training programme organized by FONGS (*Fédération des Organisations Non Gouvernementales du Sénégal*) that reached about 300 people at the local level and 40 at the national level. It was meant to reinforce the capacity of farmers' organizations to defend the interests of small-scale household farmers.²⁴ But in this case too, the debate remains restricted to a small group of likeminded NGOs and specialists and does not have real societal reach, nor has it become a real debate with the state and other agents supporting large-scale land acquisitions.

In the Senegalese media one can find reports of the involvement of high-ranking officials in land speculation, especially in and around Dakar. Examples include the case of Karim Wade, the president's son and the current Minister of International Cooperation, Aviation, Infrastructure and Energy, who was said to be negotiating with Korean investors for a tract of land that is part of the *zone maritime* in the eastern part of Dakar²⁵ or the case of an area near the national Léopold Sédar Senghor Airport that was turned over to the private domain in the light of the 2008 OCI Summit, but that was used for speculation purposes by high-ranking officials afterwards.²⁶ In 2009 the members of the Acab (*l'Arrangement cadre pour l'appui budgétaire*, the consultation body of Senegal's donors that offer budget support) withdrew budget support after the Wade government sold a tract of land near the airport that was worth about FCFA 75 billion to a Senegalese real-estate developer for FCFA 11 billion. The financial consequences of this decision and the motives of the Wade government (financing the *Monument de la renaissance africaine*) were debated in depth in the media.²⁷ Many cases remain rather unnoticed, however, and consequently do not cause much uproar in society.

There are also reports of local public authorities favouring outside investors over local residents, such as in the case of Saly where the authorities assigned the management of a large area of land to SAPCO (*Société d'aménagement et de*

²¹ Foras has recently developed a seven-year plan with the help of the Islamic Development Bank to make Saudi Arabia less dependent on the Middle East for their national food security. There have been reports of negotiations by the national authorities with the Saudis over their rental of 400,000 ha (Senewebnews, 14 December 2010: Agro-business: le Sénégal veut louer 400 000 hectares de terres à l'Arabie Saoudite).

²² IPAR/Iba Mar Faye. *Acquisitions foncières à grande échelle: le cas de zone de Ross Bethio*. Atelier sur la gestion foncière au Sénégal : enjeux, état des lieux et débats. Dakar, 13 December 2010.

²³ IPAR/Iba Mar Faye. *Acquisitions foncières à grande échelle: le cas de zone de Ross Bethio*. Atelier sur la gestion foncière au Sénégal : enjeux, état des lieux et débats. Dakar, 13 December 2010.

²⁴ *Le Peuple*, 27 December 2010: Près d'une quarantaine de responsables paysans à l'école de la formation pour défendre les intérêts des exploitations familiales.

²⁵ Politico, 21 September 2010: Scandale : Le journal Le Quotidien révèle comment Karim Wade va brader la plage de Anse Bernad à un coréen.

²⁶ Sen24heures, 15 April 2009: Les villas présidentielles à l'aéroport Léopold Senghor aiguisent les appétits

²⁷ *Le Quotidien*, 4 July 2009 : Conséquences du bradage des terres de l'aéroport : l'union européenne punit le Sénégal. *Le Quotidien*, 15 July 2009: Scandale foncier sur les terres de l'aéroport: Wade défie les bailleurs.

promotion de la Petite Côte) to promote tourism in the region. The association is now in conflict with the local authorities that claim they have no more land to assign to the local population.²⁸ The highly politicized case of rural Mbane has been heavily scrutinized at a national level.²⁹ There have also been several other reports following this high-profile case of farmers who fear that they will lose their land as the local authorities are granting outside investors user rights to large areas.³⁰

The tone of most of the Senegalese media reports on land grabs and land conflict indicates concern about the position of Senegalese farmers and the country's national food security in the face of mostly export-oriented outside investors. Local and national authorities are generally portrayed as acting in self-interest or in the interests of the elite rather than for small-scale farmers who comprise the majority of Senegal's population. The tone is often also alarmist, warning of violent resistance and *guerre civile* (civil war).³¹

It is clear that the issue of 'land grabbing', in particular the case in Mbane, is also being used by opposition politicians to attack the government and the ruling PDS. Always seeking a sensational story, the media has given such politicians ample room to create uproar but, after the event, the debate dies down and no follow-up is provided. The political positioning and superficial political debate in the media do not help the development of a more in depth debate and analysis of the phenomenon.

In spite of the reports in the media and the studies undertaken, the actual scope of land speculation and land grabs by (foreign) outside investors in Senegal remains unknown. Due to the politically sensitive and non-transparent nature of the deals and the absence of national and local land registers, it is hard to come up with hard figures. Camilla Toulmin from the International Institute for Environment and Development (IIED), which published a report entitled 'Land grab or development opportunity? Agricultural investment and international land deals in Africa' stated in an interview with IPS News that it is hard to identify trends: 'The reality on the ground is not as simple as some media reports would have it. [...] "There is evidence of speculative claims to agricultural lands, but many of these deals do not go through in practice [...] Still, if I were a small farmer, I would be increasingly nervous, having limited access to water and markets as governments are gradually tempted to take land away from what they deem to be customary, traditional and unproductive use."³²

Problems and challenges

At first sight, there appears to be a great deal of attention being paid to land issues in the media, civil society and academia, which could be considered as the sign of an emerging public debate. Upon closer scrutiny, however, it appears that the basis for a

²⁸ 7 August 2010: Spéculation, bataille autour de 620 ha, déprévation des mœurs,...Saly, la jungle !

²⁹ See for example, Seneweb, 24 June 2010: Communauté rurale de Mbane: les autorités se partagent les terres au détriment des populations locales. *Le Quotidien*, 15 September 2009: L'expropriation, la solution idoine pour Mbane : Violation de la loi sur le domaine national.

³⁰ See for example, APS, 29 December 2009: Des agricultures de Dagana préoccupés par la ruée vers leurs terres.

³¹ *L'Observateur*, 29 July 2009: Face a un risqué de "guerre civile" a Mbane : Benno demande aux bénéficiaires des terres d'y renoncer. *Le Quotidien*, 26 August 2009: Oussouby Touré, sociologue, spécialiste du développement rural.

³² IPS, 13 April 2010: *Africa : Land grabs continue as elites resist regulation.*

public debate is there, but that for a real fruitful public debate to develop, some major challenges remain.

Firstly, much of the coverage of land issues in the general media is focused on incidents, alarmist and sensational, and often also politicised.

Secondly, in spite of initiatives from civil-society organizations like the CNCR and IPAR, the mobilization of the population, local officials, farmers' organizations and wider civil society remains a challenge. One of the problems is the ambiguity of the involvement of some of the key actors in land issues. Large-scale farmers and the leaders of agricultural organizations may, for instance, also be elected officials. Another problem is that ordinary people are generally not aware of the reform projects that are in the pipeline. At a seminar on the current debate on land issues organized by the CNCR, IPAR and LANDac, the following suggestions for a meaningful and effective implication of civil society were put forward: better involvement of the media, making greater use of the large body of academic studies on land issues in Senegal, and the establishment of stronger connections between different stakeholders by identifying common interests and concerns (IPAR 2011). While most attention is devoted to the rural areas and involving farmers and agricultural organizations in the debate, the evidence of frequent land speculation in urban areas (see the case of Yoff) and the rapid expansion of the urban areas in Senegal suggest that the debate should in fact be enlarged to include the private sector and urban associations and institutions.

A third challenge is to extend the debate to the political field and put pressure on law makers regarding the process of legal reforms. The sensitive nature of the issue that makes it an electoral mine field, and the involvement of (high-ranking) officials in land speculation complicates the political process significantly. Suggestions at the LANDac, IPAR and CNCR seminar to influence the political process included reinforcing alliances with local actors on the one hand (i.e. working towards a real anchoring at the grassroots) and with international organizations and civil society on the other hand. Both local and international backing could help to effectively lobby for this in the run up to the presidential elections that will be held in February 2012.

An open national debate is a prerequisite for popular support in the struggle for land reform that does not only benefit large and rich investors. The three cases in this research project suggest that people can clearly analyze land conflict at the local level and the role of local authorities in these matters. National politics, however, and the legal reforms that are expected are complex issues that generally remain far removed from people's everyday realities. Openings to develop a national debate are thus mostly to be found by informing the population through quality coverage in the media (television, radio and newspapers) but also in innovative initiatives by civil-society organizations to actively engage local actors in reflecting on the decision-making process by starting from people's own experiences and concerns.

Conclusion

The case studies in this report have clearly indicated that there are problems of accountability concerning land issues in present day Senegal. Behind the apparent diversity in land conflicts and land-governance issues, the following common problem can be discerned. The coincidence of an increase in the value of land, the existence of layers of authority and corpus of rules accumulated over time, and modes of resolving land conflicts that centre on negotiation and flexibility to maintain/restore social peace but in which social hierarchies and patron-client relationships play a decisive role, have led to the increased necessity to protect the vulnerable and powerless, and to place controls on those in power. Governing bodies and their representatives, however, do not account to the citizens who they are deemed to represent and serve, while the latter, despite possible discontent and anger, do generally not demand accountability either.

This does not mean that there are no openings to improve checks and balances. Interestingly, old hierarchies seem to be increasingly questioned. The demonstrations on 23 June 2011 in Dakar when the people massively showed their dissatisfaction at the frequent electricity cuts and the candidacy of President Wade for the presidential elections in 2012 (he would run for a third term, something prohibited by the Constitution) indicate an increasing emancipation of the Senegalese population, and illustrate, for instance, that they no longer submit themselves to the mediation and easing out of social discontent by religious leaders to the benefit of the ruling elite (Kaag 2011). They have been partly inspired by popular protests in Tunisia and Egypt earlier that year.

Even though these demonstrations are important markers of changes in society, the problem of accountability cannot be resolved in a day. The problem is how to make responsible and assertive citizens. This requires a good level of basic education (people should be able to check information for themselves) and civil education (what are my rights and how can I enforce them?). In addition, the problem of poverty presents itself here. It is clear that poor farmers who have to try to survive will only be able to think about sowing and what they are going to eat tomorrow, and not have larger horizons of reflection nor engage in emancipatory action (see Sen 1997; Bebbington 1999). Poverty also plays a role in land speculation in urban zones like Yoff, as we have seen.

Considering the governors - those who are to be held accountable - and the rules they are considered to apply, it can be concluded that the rules and possibilities for adapting the rules to fit the current social realities are not the main problem. In the end, it to a large extent is about political ethics. Current courses for councillors are very much geared towards technicalities and rules but it would be more useful to raise awareness about political ethics and to do so by taking practical cases as a point of departure for debate.

The specialist debates do not reflect the reality of how conflicts are resolved in practice, nor do they reflect the solutions proposed by a lot of people. For many, 'modern' democracy means non-accountability, as they feel that they have no control, which is why they want to move away from elected bodies to the traditional figure of the village chief who is considered a-political and thought to represent the village as a whole. A more thorough analysis of objectives and means and social mechanisms in

conflict resolution concerning land issues would be helpful to arrive at better-tuned propositions.

It is clear that there is a great deal of experience with lack of accountability but it is often not framed in that ways. People talk about conflict, misuse of rules etc. So there are a lot of openings to start discussing the problem. It is also clear that problems of accountability are increasingly being reported, certainly those at the national level, the characteristics of the current discussions are however hampering the development of a fruitful and real ‘public’ debate. On the one hand, debate is limited to specialists who are discussing in their own groups (government and donors on their side, farmers’ organisations and Action NGOs on their side), on the other hand there is extensive coverage of the issue in the media, but this is focused on incidents, alarmist (sensational), and often politicized. Both specialist debates and debates in the media do not reach a large part of the population.

Policy recommendations

Accountability in land issues could be improved by:

- An improved traceability of rights and decisions concerning land matters taken by the authorities (rural councils, municipal councils and the central state) by means of a cadastre, *livres fonciers* listing attributions and the like.
- A sensitization of the population concerning their rights and their responsibility to control those in authority. Interactive means could most usefully be mobilised in order to facilitate debate and to allow people to develop their own ideas about objectives to be reached and the strategies to be employed concerning land management, for instance, by developing/using interactive radio and television programmes (*disoo*), sketches and performances in local settings, school programmes and literacy programmes for adults.
- An ‘alternative’ tuition programme for councillors that does not accentuate technical aspects but builds on the experiences of the councillors themselves, stimulates debate and exchange and explicitly addresses ethical questions. In addition, councils should be guided and supported when dealing with land acquisitions by external investors to negotiate a good outcome for their local communities.
- Stimulating ethically sound entrepreneurship, by sensitizing (external) investors both to the rules to follow when investing in Senegal and to ethical aspects involved, and by drafting codes of conduct for ethically sound entrepreneurship.

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