

# The Land Policy Process in Burkina Faso: Building a National Consensus

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The process of developing land policy documents is new to West Africa. While Ghana adopted a land policy document in 1999, others are still only in the preparatory stages. In the 1990s, countries had tried to formulate land codes with little success. At that time, much of West Africa was governed by regimes that monopolized land ownership and did not allow genuine consultation. The land laws that emerged were technical, complex, and poorly adapted to local realities. As a result, they were ineffective, and land tenure insecurity has become prevalent among rural stakeholders and the numbers of land conflicts are increasing.

The recent wave of democratization and decentralization in the region has led to the development of civil society organizations (CSOs) calling for broader participation in decisionmaking on land issues. The need to build consensus has also been endorsed by West African intergovernmental institutions and by governments. The process of preparing land policy documents requires the state to engage in dialogue with all stakeholders. In this process, policy options to promote land tenure security or access to land are made clear and discussed by all. If the dialogue leads to a consensus, the laws drafted will have a greater chance of being accepted and therefore of being effective.

## **Land Issues in Burkina Faso**

Prevailing land law in Burkina Faso does not recognize customary land rights: all land is considered state property, and anyone seeking access to land must apply for use rights. On the other hand, local communities do not recognize this monopoly ownership and regard themselves as the true owners of their land by virtue of their ancestral rights. While the state's monopoly of landownership is theoretical, it has resulted in great insecurity with regard to land tenure for the 90 percent of the population whose rights to land are customary. It is also at the root of the enduring conflict between the legality of state monopoly of land and the legitimacy of communities' land claims.

Land conflicts are developing everywhere at the local level: between herders and farmers over grazing areas and water; between villages over boundaries; between autochthonous people and migrant farmer populations over agricultural lands; and between state and local communities over incursions into reserved forests. Complicating matters is that most regions in Burkina Faso deal with very diverse local realities: the northern pastoral part of the country, for instance, has nothing at all in common with its forested south. This wide variation rules out a one-size-fits-all solution. The judiciary system is not prepared to address land disputes at the local level. Hence, many conflicts are settled through alternative dispute resolution mechanisms involving traditional chiefs and other local institutions.

Rapid change is part of the complexity of the situation in rural areas. There is a trend toward land concentration among the urban elite and agro-businessmen. These groups take advantage of people's poverty and lack of information to buy communal rural lands at below-market prices. The state encourages this trend because it believes that smallholder farming cannot meet the country's food production requirements. It thus provides incentives to agro-businesses by giving them access to credit facilities as well as political support. Rapid population growth is strongly affecting land relationships in rural areas. The population of Burkina Faso is expected to increase dramatically in the next few decades, and such growth will create land scarcity for agriculture, increase competition for land, and create more land conflicts. It also will put more

pressure on natural resources and the environment. Another major change trend is rapid urbanization. By 2025, the majority of the population of West Africa will have moved to major cities in search of economic opportunities. Such a change will greatly affect land issues in rural and peri-urban areas.

## The Process of Developing Land Policies

In Burkina, it was agreed early on that in the process of developing the land policy, all stakeholders should participate equally. While the state is ultimately responsible for preparing the land policy, it must share this role with farmers, local communities, local governments and the private sector, all of whom have legitimate rights to access land. Among farmers and communities, both traditional chiefs and leaders of farmers' organizations should have equal footing in the debate. Women in particular should be included, and furthermore, their rights should be discussed among community representatives, as many local customs do not recognize women's land rights. State and local government support for women's access rights is crucial, as they have authority over a part of rural lands. Private sector representatives should also be present, but it is important to ensure that their land access procedures are transparent and that their land claims do not infringe on the rights of communities.

The land policy dialogue is being organized by a consultative group (the National Committee for Rural Land Tenure Security) whose members represent key ministries, farmers' organizations, and CSOs representatives. The committee provides policy guidance to the process and uses independent experts to conduct the policy dialogue on the ground.

Each stakeholder group organizes specific dialogue sessions, the objective of which is to allow each group to formulate its own vision of land tenure and land access. Common sessions are then organized at the local and regional levels where each stakeholder can challenge the views and interests of other stakeholders. A national forum will follow these local and regional sessions and final agreements on the land policy options will be drafted. The proposed land policy will then be submitted by the National Committee to the government for consideration and adoption. Once it adopts the policy, the government will prepare a framework land law—guided by the consensus points in the land policy document.

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## Main Options in the Current Debate

- Which customary land rights should be recognized? In particular, how should rights claimed by traditional chiefs be considered?
- How is it possible to secure collective customary land rights and on behalf of whom?
- How can women's land rights be protected in the context of dominant customary local practices that exclude women from land ownership?
- How can access of pastoralists to natural resources be improved and protected?
- How can the land concentration process be controlled to protect the land rights of the poor?
- How can land management capacity be established and developed locally?
- How can governance in land management be promoted locally and nationally?
- How will future rural land policy and law be implemented?

## Guiding Principles of Consensus Building

The experience in Burkina Faso has shown that a number of principles must be observed in holding a policy dialogue to help build a national consensus on land. First, it is key that the dialogue involve all stakeholders. Second, the dialogue must be informed. In particular, it must be based on a clear analysis of the primary

land issues. Moreover, the analysis should not be monopolized by land experts; rather, it must be a shared diagnostic based on consultations with communities. Third, the dialogue should be based on lessons learned on what is working in land tenure security and what can guarantee access of the poor to land. Finally, the land policy dialogue should be linked with the ongoing debate on other major development policies, mainly in the field of agriculture, decentralization, and poverty alleviation strategies.

**Further reading:**

Hubert Ouedraogo. 2004. *Land Research, Politics and Advocacy. In: Securing Land Resource Rights in Africa: Pan-African Perspectives.* Cape Town: PLAAS, University of the Western Cape.

Philippe Lavigne Delville, H. Ouedraogo, C. Toulmin. 2003. *Pour une sécurisation foncière des producteurs ruraux.* Paris, GRET.

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