



Date - Lieu

Competing conceptions of Customary Land Rights Registration (Rural Land Maps PFRs in Benin)

Methodological, policy and polity issues

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Outline



I. PFRs as a tool for registering local/customary rights



II. Competing conceptions on land rights and legal framework



III. Implementing PFRs: methodological choices and field impact



IV. Policy and polity issues



I. PFRs as a tool for registering local/customary land rights



1. Securing local/customary land rights: Three conceptions

- Formalizing individual ownership rights for productivity
- Enhancing local/customary regulations for conflict resolution
- Building a dynamic bridge between local rights and the legal framework for conflict resolution, social integration and productivity

2. State Domain, « Titre fonciers » and Customary Rights in Benin



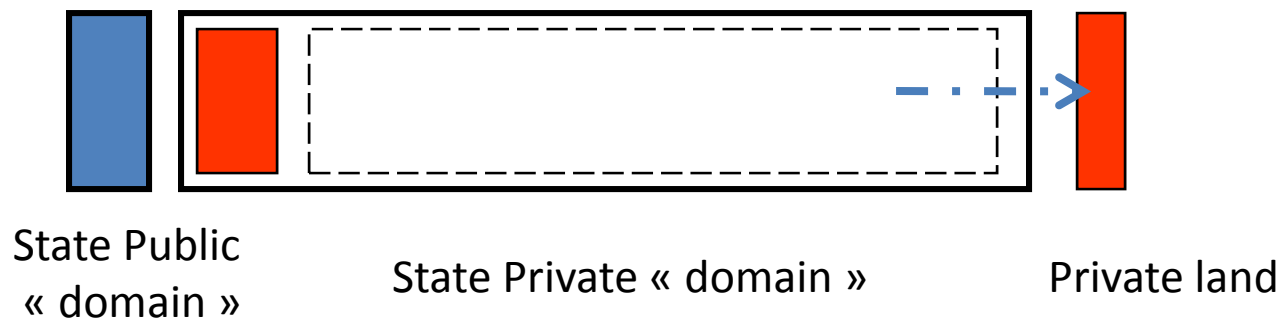
Rivers and rivers banks, dams, etc.

Land immatriculated in the name of the State

Land « free and without master »

« Titre foncier »

Land immatriculated in the name of individuals or firms



Land owned and used by people (farmers, herders, fishers etc.) under local/customary regulation

3. PFRs : Identifying and registering local/customary rights, as they are in the field

- Coupling identification of land rights and plot delimitation
- Social consensus as the proof of rights
- Land Certificates as a new « title »
- Commune-level framework for land certificates administration
- PFRs : an hybrid answer ?



II. Competing conceptions of land rights



1. Two related issues

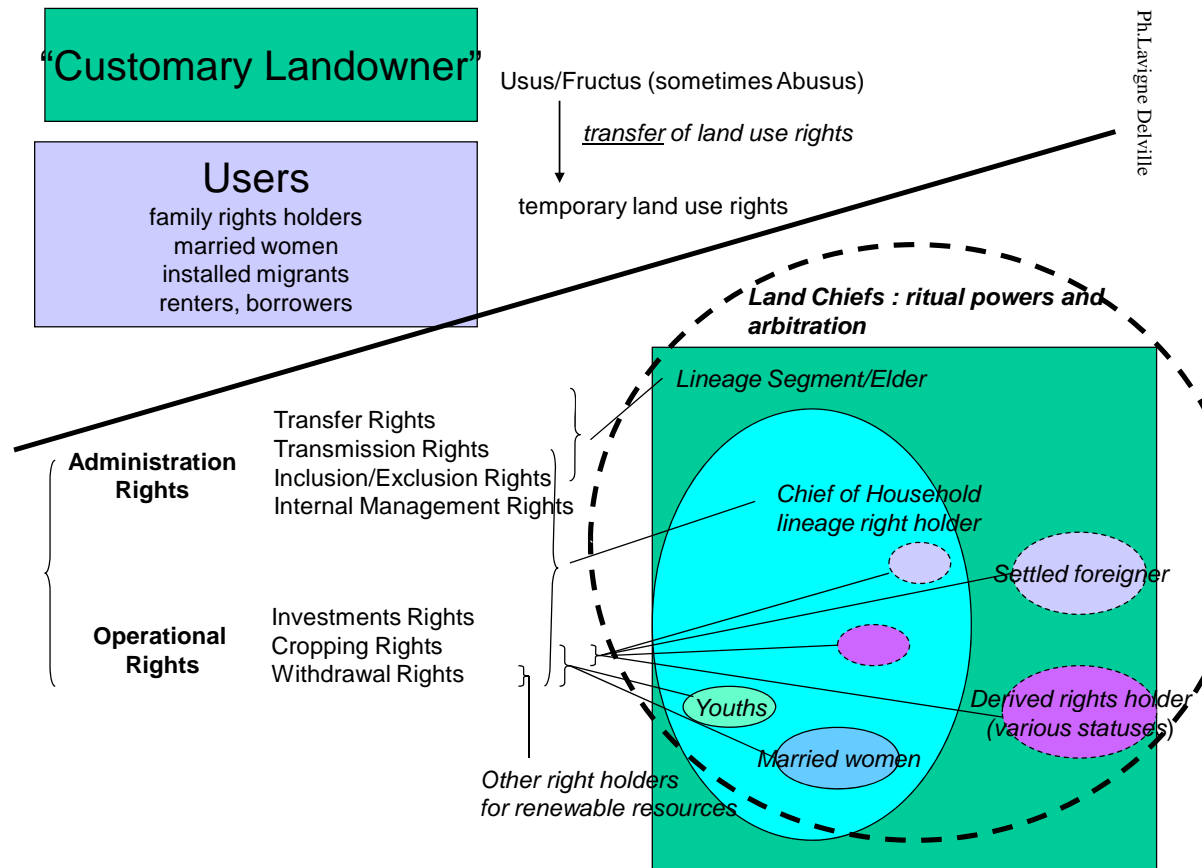


- What are land rights in the field ?
- What kind of « property rights » can be recognized by the state ?



2. What are local/customary land rights?

- The socio-political dimension of customary rights
- Private « customary » ownership vs bundles of rights





3. What are Land Certificates?

- A transitory step toward « Titre Foncier »?
- Formalising private (individual or collective) ownership, without State support?
- Formalizing (more or less extended) family estates?
- Formalizing every kind of rights on land and naturel resources?



Land registration for productivity

Individual ownership and
land market for investment

A/ Individual ownership. Land
Certificates as a transitory step
toward Land Title

B/ Individual or collective ownership.
Land certificates as a long term
legal innovation.

C/ Family land masterships. Land
certificates as a long term legal
Innovation, covering a diverse set of
(individual or collective) bundles
of rights on plots.

**D/ All rights on land and natural
resources.** Land certificates as
covering a broad set of
Individual and collective rights on land
and natural resources.



**Securing local land rights for social peace,
and social integration**

Clarifying existing rights in their diversity
Giving them legal recognition
Crafting regulation institutions

4. Two intricate controversies

- Conceptions of land securisation
- Immatriculation : pro and cons
- ProCGRN and MCA: two visions of PFR

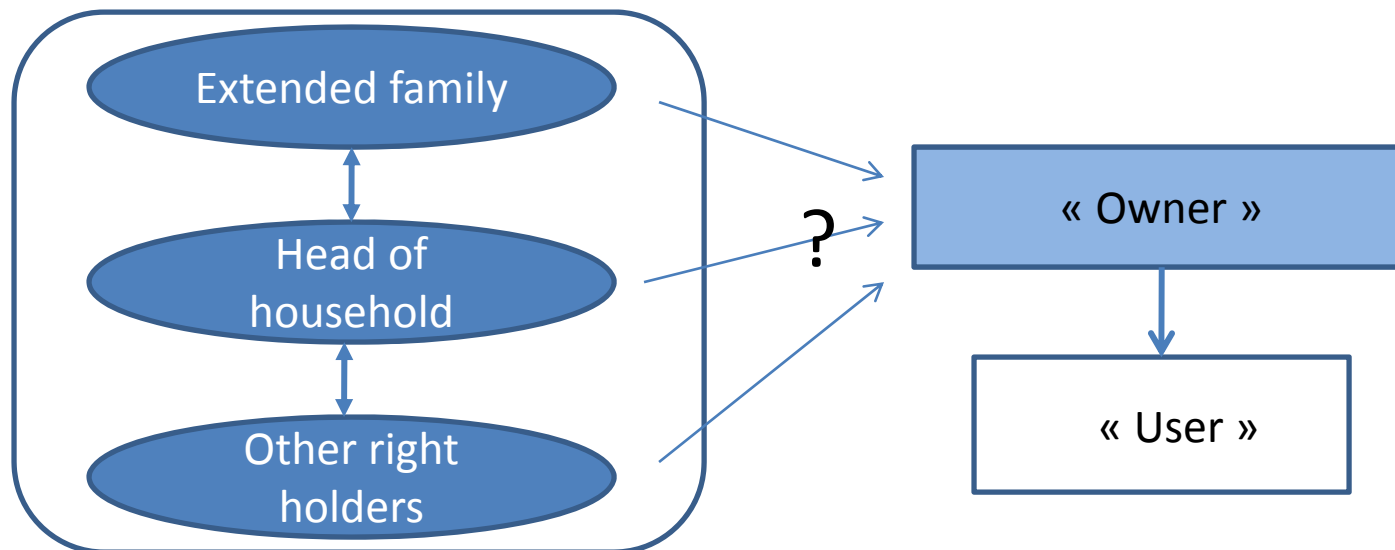
One main issue: which impact on the field?



II. Implementing PFRs: methodological choices and field impact

1. Over-simplification of rights through surveys, leading to exclusion and conflicts

- Complex bundles of rights vs « ownership »



2. Other risks of conflicts with a « ownership » approach

- Village refusing PFRs after understanding what is at stake
- Inter-villages conflicts when village territories are imbricated
- Anticipating strategies from local chiefs
- New conflicts created by room for opportunism



- Risks are maximum when
 - > The conception of rights is too far from local realities, giving room for manipulation and opportunism and over-simplification
 - > PFR teams do not have sufficient skills, promote an « ownership » vision, and have high productivity objectives
- « Traditional » PFR methodology built on experience and « ethnography of land rights » to minimise the risks



3. Dealing with complexity in « traditional » PFRs



- Taking into account the diversity of contexts and of issues
- PFR when village ask for
- Village level survey to assess opportunities and risks, and record local norms on land
- A sound socio-anthropological methodology for identification of rights
- Surveys led by sociologists

Distorsions when the focus is on plot limits and immatriculation, and teams leaders are surveyors



	PFR as a tool for securing local rights	PFR as a tool for immatriculation
Conception of Local Land Rights	Diverse types of rights	No matter
Conception of Land Certificates	Legal long term innovation	Short term transition toward immatriculation
Decision for PFR	PFRs made on village initiative Long term process	PFRs must be systematic, in a short term
Preparation	Village survey to assess the demand, understand the opportunity and risks, record local norms, and prepare the plot survey	Village surveys to prepare the plot survey
Surveys	Focus on the rights and the consensus on rights. Tenure specialists as team leaders. Conflict resolution as part of the process	Focus on limits and the name of the main right holder. Land surveyors as team leaders
Plot delimitation	Consensus on limits and local demarcation more important than precision on the map. Intermediate precision to reduce.	Same norms for PFR and Immatriculation, cement boundary marks



IV. Policy and polity issues



Generalising immatriculation or building gaps between local/state regulation : two policy options



Strong doubts on the immatriculation strategy



The conception of land rights as part of the social contract : a governance issue

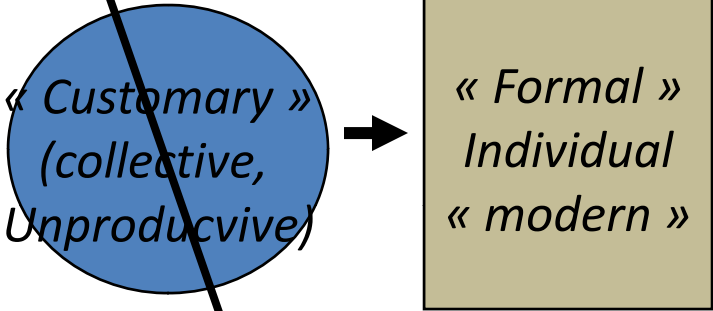


Legal pluralism as an inclusive and workable option

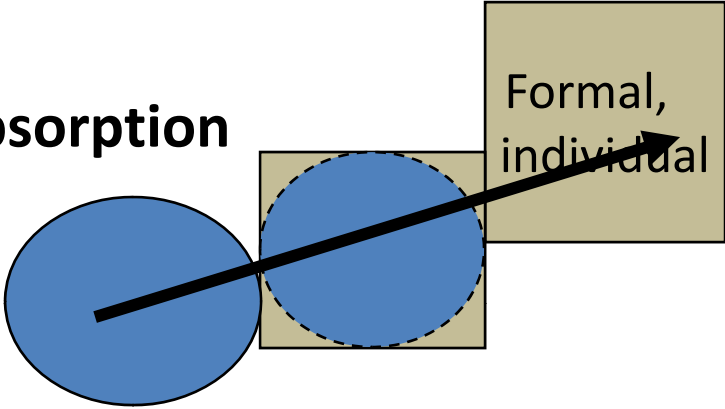


Three paradigms (J. Bruce)

Substitution



Absorption



Formalised rights Collective – Individual

Dynamic articulation

