

**SESSION REPORT | African Soil Seminar | Nairobi, 28-30 November 2016**

SOIL RESTORATION FOR ACHIEVING THE 2063 + 2030 AGENDAS IN AFRICA: LINKING GLOBAL AMBITIONS TO LOCAL NEEDS

Title	<b>Land governance and sustainable land management in Africa: What lessons to draw?</b>
Date	Tuesday 29 November 2016
Organizers	<b>Simon Bodea</b> , Terre et Vie Benin <b>Saydou Koudougou</b> , GRAF <b>Matteo De Doná</b> , Research Associate, Global Soil Forum, IASS <b>Charlotte Beckh</b> , Research Associate and Coordinator Land Governance, Global Soil Forum, IASS
Co-Hosts	Terre et Vie, Benin Groupe de Recherche et d'Action sur le Foncier, Burkina Faso (GRAF)
Facilitator	<b>Téodyl Nkuintchua</b> , CED Dameroun
Rapporteur	<b>Matteo De Doná</b> , Research Associate, Global Soil Forum, IASS

## 1 | DESCRIPTION

The main objective of this session was to discuss the links between land governance and sustainable land management (SLM) in Africa, and identify and discuss possibilities offered by land governance for sustainable land management as well as underline limitations. During the session it was shown how these possibilities are taken (or not taken) into consideration in SLM actions, including the main results and gains that ensue.

The discussion touched upon the impact of international processes on national land laws and the financing of agricultural projects in African countries. Responsible land governance and sustainable land management are not an end in themselves. Instead, they are promoted with the aim of guaranteeing food security for people in a healthy, protected and resilient environment.

In the session, participants had the opportunity to discuss the integration of land governance and SLM in the context of food security challenges. Based on pre-existing processes in land governance and SLM as well as their own experiences, participants could identify hindrances and limitations and reflect on alternatives and possibilities. At the end of the session, participants were able to draw valuable lessons and create the basis for a platform aimed at exchanging knowledge and experiences on the subject



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## 2 | DISCUSSIONS



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After giving the floor to IASS for a short opening, the moderator, **Téodyl Nkuintchua** (CED), introduced the panel and briefly presented the main topics of the session, hinged on the link between land governance and sustainable land management (SLM) in Africa.

**Saydou Koudougou** provided the participants with an overview of the work and projects conducted by GRAF (Groupe de Recherche et d'Action sur le Foncier) of **Burkina Faso**. He recalled the importance of agriculture for the economy of his country, which is severely affected by the effects of land degradation. He defined land governance as the combination of the policies of various institutions that uphold recognised rights, rules and procedures, with respect to access to land and securitization of property rights.

He stressed the dichotomy between customary and modern land governance and briefly presented the legal framework of Burkina Faso with respect to land and property rights. Recent legal developments traced a division of land in three categories: state, collectivities and individuals. Each individual can enjoy customary or property land rights through a system of public certification at communal level, permitting securitization of rights also to women, youth and migrants. He mentioned, for instance, the 2007 National Policy of Land Securitization, which offers the promotion of agricultural production that guarantees the sustainability of the environment and soil, and which contributes to reinforced land rights for future generations. He also discussed the positive developments brought forward by the Law on Agrarian and Land Reorganization (RAF) of 2012, which recognizes in a clear and comprehensible way the principles of sustainable development and management, as well as the principle of conservation of soil and biodiversity.

Commenting on the incorporation of the opportunities offered by the legal frameworks into SLM projects, he regretted the short-term duration of these projects but also commended the fact that the projects undertaken after 2007 take the land governance question more seriously. He noted that customary regimes are often not compatible with certain technologies and that this is one of the reasons why many SLM projects do not take sufficiently into account the land governance question. He stated that investments should not only focus on technological and economic development, but should also take into consideration other questions such as the cultural dimension.

**Simon Bodea** (Terre et Vie Benin) described the **situation in Benin**, outlining changes that occurred in the national context with the adoption of new laws. He pointed out the modest results of SLM projects in the country until 2013, as the land governance dimension was not adequately addressed and was largely dominated by the duality of customary and ‘positive’ law. He recalled that the weakening of community land management caused by ‘positive’ law regimes has resulted in the appearance of several individual owners, with the consequence of land being grabbed and accumulated by the most affluent within the country. This has reduced secured access of farmers to land, making them incapable of managing the land in a sustainable way.

Luckily, the legal framework has recently offered some instruments to farmers: e.g. laws that safeguard sustainable use, strengthen land rights, facilitate in obtaining property rights, secure the rights to land use, but also put obligations related to the valorization of land. Similarly to the case of Burkina Faso, it is important for SLM projects to have a long-term perspective in order to yield concrete results. SLM and land governance are at the service of food sovereignty. In projects after 2013, the land governance dimension in Benin has been increasingly taken into account. The farmers have adopted technologies, but the securitization of their access to land still needs to be improved. Mr. Bodea concluded that for SLM projects to be successfully implemented, they need to include a budget for the securitization of rights of land users. In sum, he underlined that the legal framework in Benin is favourable.

The moderator invited the audience to pose **questions to the panel with regard to the situation in Benin and Burkina Faso**: participants inquired about issues such as land transition, land access for future generations, the link between SLM technologies and land governance, housing schemes, landlessness, internal conflicts, land expropriation, food security and securitization of women’s rights on land.

**André Tioro** (GRAF) provided an answer to some of the questions, recalling that women usually manage lands that are poorly suited to production and always in an insecure situation. He commented on the changing role of customary rights, whose social structures are challenged by the marketization of land. He expressed doubts about the readiness of Burkina Faso’s society to well receive the concept of ‘titles’, recalling that the real priority is securing access to land and land use for producers. He confirmed that the overall legal framework in the country is good, but that there is much work to be done in terms of implementation. He commended the purpose of the RAF law in terms of land distribution, as a valuable tool to avoid land grabbing.



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**Marcellin Allagbe** (CARDER) took the floor and acknowledged that there are often constraints in the adoption of SLM technologies, and that the needs of the collective cannot be properly addressed with one-size-fits-all technologies. He added that to adapt to innovations, the sociological question needs to be dealt with first, as for example women are rarely given the possibility to both access and enrich land. He also said that laws need to be popularized, synthesized and translated into local languages, especially in a country such as Benin where a very large part of the population does not speak French.

**Simon Bodea** mentioned the work conducted by 'Synergie Paysanne' in preserving the existence and functioning of a collective management of land in the modern legal framework, while **Saydou Koudougou** described how the new laws of Burkina Faso try both to integrate customary regimes and to take into account the Voluntary Guidelines on the Responsible Governance of Tenure of Land, Fisheries and Forests (VGGT) of the FAO.

During the final part of the session, the moderator invited participants from all **countries to present innovative and breakthrough developments in their respective national legal frameworks**, aiming to promote an exchange of experiences across African countries. **Kenya** mentioned progress in agricultural land policy, with particular respect to access, ownership and succession (e.g. women's rights and inheritance law), as well as the digitalization of the land register. **Ethiopia** recalled the 2005 Rural Land Administration Law allowing land to be used by any person (ensuring a gender perspective), improved land certification and cadasters, a community-based participatory watershed management, as well as a new scheme on agricultural productivity. **Nigeria** pointed out developments in community control of land, better timing in business registration processes, decentralized land registration system and new company-initiated compensation schemes. **Zimbabwe** recalled laws to accommodate youth land ownership, communal users' rights as well as redistribution of land based on gender-balanced ownership. **Uganda** cited good laws on ownership/tenure of land and forestry protection, protection of the environment and national parks, and a human rights perspective in the protection of all land users. **Cameroon** singled out reduced land grabbing as one of the main achievements. **Burkina Faso** talked about good work at communal level, in particular as far as the taking into account of traditional and customary land governance practices is concerned and commitment in the implementation of the good legal framework. **Senegal** emphasized work on value-creation of Senegal's river-specific usages as well as progress in local democratic practices for reducing conflicts. **Benin** highlighted the popularization of legal articles, adjustment of SLM technologies, and the code on ownership of land with provisions for access to land for smallholders.

At the end of the session, **participants discussed possible ways to operationalize a platform for the exchange and sharing of experiences, good practices and solutions**. The exercise of listing innovations for each country would serve as a basis to launch a dialogue within the platform. The dialogue would focus on the benefits of SLM practices and would simultaneously aim to share such practices and to search for financing mechanisms to perpetuate them. All participants would participate in the platform on a voluntary basis, the platform being 'multistakeholder' and hinged on the triptych SLM – security of land rights – food sovereignty. The possibility of sharing material on-line was highlighted as one option, for instance with the goal of strengthening communication across countries on SLM. The importance of involving communities and collectivities in this exercise was stressed, along with the need to ensure an interdisciplinary

approach with respect to the three interconnected dimensions of land governance, soil rehabilitation and food security. The importance of taking into account different local contexts in different countries was emphasized.

The moderator closed the session commending the fact that the discussion did not only focus on issues, but highlighted possible solutions, indicating advocacy and awareness raising as crucial strategies to ensure implementation. IASS stated that it will consider the possibility of exploring opportunities to facilitate the setting-up of the knowledge exchange platform discussed during the session.

### 3 | KEY MESSAGES

- The use and spread of SLM technologies has to be accompanied by a securitization of land rights in a way that food security can be achieved. Despite satisfactory legal frameworks, enforcement and implementation are often the main issue to be tackled.
- Sustainable development goals, notably the one on eradication of poverty and ensuring food security, can be achieved in Africa by finding the right balance between positive/modern and customary law. In particular, it is important that the latter can be adapted in a way that the current land tenure regime is improved.
- In order to secure land tenure rights and to improve access to land for vulnerable and food insecure people, including women and young people, it is important to accompany SLM and soil rehabilitation practices with activities that are well-suited to local contexts. A good way to trigger this process is popularizing, synthesizing and translating legal texts to make them accessible and easily comprehensible to local and rural populations.
- Beyond the national dimension, sharing experiences within regions and across countries can be another valuable strategy to accelerate such process at regional and sub-regional levels. In order to promote the sharing of good practices, information and success stories within and across countries, it is also important to take advantage of technologic and digital instruments.



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