

CONTRIBUTION OF PNGT2-3 TO THE GENERALIZATION OF THE APPLICATION OF LAW 034-2009 / AN ON THE BURKINA FASO RURAL LAND REGIME: SUCCESS - INSUFFICIENCY AND LESSONS LEARNED

GANOU Issifou

Observatoire National du Foncier - Burkina Faso (ONF-BF),
404, Rue 15.728 14 BP 34 Ouagadougou 14,
+226 25 37 68 50 (phone) | +226 70 33 86 96 (cell)

OUEDRAOGO Moussa

Observatoire National du Foncier - Burkina Faso (ONF-BF),
404, Rue 15.728 14 BP 34 Ouagadougou 14,
+226 25 37 68 50 (phone) | +226 70 29 14 40 (cell)

NASSA Suleyman

Deuxième Programme National de Gestion des Terroirs
468, Avenue Pr Joseph KI-ZERBO 01 BP 148 OUAGADOUGOU 01

1. INTRODUCTION

Since the recognition of the right to property in the 1991 Constitution (the right to property is guaranteed) land tenure has been a major challenge for development in Burkina Faso. Local land conflicts are gaining momentum as access to scarce land resources diminishes. Following an extensive consultation process the Government adopted a new law on rural land - Law No. 034-2009 / AN of 16 June 2009 on rural land tenure (RFR-2009) in June 2009 to ensure access rural land investment promotion and sustainable management of natural resources. A major innovation of this new law on rural land is the central role conferred on local actors including traditional and traditional leaders in the land security process. This new law provides a mechanism for participatory management of local natural resources through the participatory development of the local land charter which sets out procedures for the recognition of common-use land and various forms of customary land-use rights. Several donors including the Millennium Challenge Account (MCA) (United States) the French Development Agency (AFD) and the World Bank have provided support to the Government for the design and implementation of the new law.

As local people became aware of the benefits of implementing this new law on rural land tenure there was growing pressure for its spread throughout the country. This situation has been amplified by the recent approval of a Framework Law on Agrarian and Land Reorganization in July 2012 which incorporates Law 034-2009 / AN on rural land tenure.

It is therefore in this context and in terms of response to needs that since its first phase and up to its third phase the Second National Program for Land Management (PNGT2) has always considered the issue of rural land reform as a priority intervention axis.

The present note is a capitalization of the achievements of the program (PNGT2) to the rural land reform and the generalization of the application of the law on the rural land in Burkina Faso.

2. HISTORICAL RECALL

The PNGT2 is part of the operationalization of the National Program for Decentralized Rural Development. The Program Objective (over 15 years) as defined in 2000 was

"The sustainable improvement of the productive capacity of rural resources (natural physical human financial) and the emergence of a more dynamic local economy in through empowered rural communities and leading their own local development process."

The program was implemented in 3 phases of 5 years:

- Phase 1 Support to village organization and the emergence of decentralized rural development;
- Phase 2 Extension and deepening of participatory and decentralized rural development
- Phase 3 Consolidation of program achievements.

2.1. The PNGT2 Phase I (2002 to 2007)

PNGT2 Phase I (2002 to 2007) had the overall goal of rapidly reducing rural poverty and promoting sustainable human development.

These three specific objectives were

- develop the organizational and management capacities of villages and village groups;
- To improve the living conditions of rural populations through productive investments and socio-economic infrastructures in the countryside of Burkina Faso;
- preserve and restore the natural resources of the terroirs (water soil vegetation fauna).

These components were structured as follows

- Local Capability Development (DCL);
- Local Investment Fund (FIL);
- Pilot Operational Property Security (OPSF);
- AGSE

Funding US \$ 107 million.

The achievements of the program were as follows

- Number of villages covered 3013
- Number of CVGT put in place 2961
- Number of TMPs developed 2986
- Man-day number of training 5 520 194
- Number of micro-projects completed 18250
- Amount invested in the Communities' account approximately 30 Billion

Finally this phase allowed:

- Test confirm and anchor large-scale project management by local communities as a viable option for grassroots development;
- capitalize on the gains and insufficiencies in terms of land security to fuel reflections;
- To stimulate consultation and move towards the harmonization of approaches.

2.2. PNGT2 Phase II (2007 to 2013)

For this phase the development objective was for rural communes to plan and implement local development activities in a participatory and sustainable manner in accordance with the recommendations of the National Program for Decentralized Rural Development.

Geographical coverage and duration

- 302 rural communes;
- 6.5 million inhabitants;
- Its execution time 5 years.

The achievements of this phase were:

- Number of rural communes covered 302
- Number of PCDs developed 201
- Number of updated PCDs 196
- Man-days trained 2770255
- Number of Annual Plans of Municipal Investment 772
- Number of Conventions signed 772
- Total number of funded micro projects 5883
- Number of completed micro projects 5873
- Amount of micro-projects executed FCFA 27760833185
- Overall financial performance of the Program CFAF 42269790720.

2.3. PNGT2 Phase III (Current Program)

The program's development objective is to build the capacity of rural communities and decentralized structures to implement local development plans that promote the sustainable management of land and natural resources and profitable investments at the commune level.

The targets of the program are the project will target mainly the 302 rural communes in all 13 regions of the country and in a specific way the beneficiary groups will be

- Regional territorial units managed autonomously by the regional councils with elected councilors;
- Local communities village populations and households municipal councilors representatives of the CVDs
- The administrative entities that host the majority of deconcentrated public services;
- Civil society service providers and deconcentrated technical services as well as private entrepreneurs and NGOs;
- GEF investments will be concentrated in four ecological zones.

In terms of impact indicators the following aims are expected

- Number of direct beneficiaries of the project (including women in percentage)
- Annual Investment Plans with at least 50% of activities in progress (percentage of all PAIs) IDA
- Additional land area under Sustainable Land and Water Management (SLMM) and Sustainable Forest Management (SFM) practices (hectares).

These components are as follows:

Component 1 Capacity Building for Decentralized Rural Development

Component 2 Application of the Rural Land Tenure and Strengthening of Local Level Conflict Resolution Mechanisms

- the establishment and operation of land services of municipalities and village structures (SFR, CFV and CCFV);

- building the capacity of local actors and rural communities to implement land titling processes in an efficient and transparent manner;
- Support for land titling operations (APFR);
- Dissemination of the law to increase the awareness of men women and illiterate people of their rights and to prepare the ground for equitable access for men and women to land;
- Diagnostic studies on land ownership;
- The elaboration of land charters;
- Any other documentation provided for by the Rural Land Tenure System such as the registration of usufruct rights (rural land ownership certificate);
- The regularization of land reserved for investments by local authorities;
- strengthening the capacity of local actors to resolve conflicts related to land ownership.

Component 3 Local Development Investments in Rural Municipalities and Regions

- Support for social environmental and economic investments;
- But with a focus on economic investments to foster local economic growth and income generation and NRM / environmental investments that are needed to ensure sustainable rural development;
- GEF investments will focus on four ecological zones to increase environmental impact.

Component 4 Sustainable Land and Forest Management Protecting and Restoring Ecosystems in 4 Targeted Ecological Zones

Component 5 Project Management Monitoring and Evaluation.

The strategy for implementing the program is based on the full responsibility of the actors for the implementation of the activities and these ensure the project management of the investments.

3. ACQUIRED PHASE 3 OF THE PROGRAM

From the exploitation of the different monitoring-evaluation reports it appears that the PNGT is a "flagship program" that has had a strong and decisive impact on (i) the political choices of the local development approach; (ii) the development of local authorities (iii) the improvement of the living conditions of rural populations; (iv) rural land management; and (v) the management of natural resources (land fauna flora forests). In particular he was the precursor and driver of the adoption of the law on rural land in Burkina Faso and the initiator of the establishment of Rural Land Services (SFR). Indeed its national coverage its longevity the involvement of all socio-professional groups in its implementation and its ability to adapt to socio-political developments have enabled it to generate knowledge skills practices and know-how adapted to the context of Burkina Faso. These achievements represent a national heritage that should be valued and taken into account in all interventions in decentralized rural development in the country. Thus special attention is paid to the PNGT at the level of the strategic axes engines of development in Burkina Faso (i) the significant contribution to the preparation of the framework and the subsequent adoption of decentralization as a development approach in Burkina Faso; (ii) success in setting up and developing local authorities; (iii) a key role in the formulation of the

national policy of land security in rural areas; (iv) a significant increase in the supply of social infrastructure (education health sanitation access to water etc.); (v) a remarkable contribution to the protection and development of natural resources (soils water vegetation fauna flora); and (iv) strengthening the capacities and competences of municipalities for decentralized development. The achievements of Phase 3 of the program are summarized in the table below as of June 30 2017.

Table 1 PNGT2-3 Results Framework as of June 30 2017

Indicators of results at the level of the ODP	Target values at the end of the project	Cumulative values As of June 30 2017
Direct beneficiaries of the project	2 000 000	3 304 770 of which 51% women
Additional areas in GDTE and GDF (in HA)	220 000	212178
Number of beneficiaries trained	8 000	21 627 of which 15.15% women
Number of structures formed	500	463
No. of training topics taught	30	32 of which 8 in Natural Resources Management
Number of PCD finalized and submitted to CVDs	302	302 - target reached since 2015
Number of operational SFRs	25	47
Number of Certificate of Land Possession	700	280
Approved local land charters	10	0
% of funding allocated to profitable or commercial micro-projects	55%	32.99%
% of successful micro-projects	N/A	85%
GDTE practices disseminated in areas	6	8
Update of selected protected area management plans	3	4
Participatory management plan developed and implemented in shared forests of targeted communities	25	33
Number of audits of financial reports certified without reservation	100%	100%
% of funded municipal councils submitting quarterly reports on time	100%	100%
Steering Committee Meetings Held Annually	10	7
FEM tracking tools updated	4	5

Among the major achievements in land the following targets are to be noted

- Support to the establishment and operation of Rural Land Services (SFR) in 50 new municipalities and village property management structures and bodies (1457CFV 1457CCFV 50 SFR);
- Support for cadastral sectioning and registration of acquired rights in 50 rural communes of Burkina Faso
- This operation involved the development of a cadastral plan and the inventory of acquired land rights. The cadastral sectioning makes it possible to identify in a unique and precise way any communal land entity whether private lands or common resources.
- Strengthening the capacities of local actors and rural communes to better implement the law 034-2009 / AN of 16 June 2009 on rural land tenure through a multi-stakeholder approach thanks to signatures of collaboration protocols between several institutions of the land chain at the national level
- Support for the issuance of 2000 titles of enjoyment (APFR) in 10 municipalities by MAST technology
- Support for the facilitation of regional consultation frameworks on land issues in the 13 regions of Burkina Faso (13 CORE-SFR)
- Support for the dissemination of the 034-2009 / AN of 16 June 2009 on rural land tenure to increase the awareness of men women and illiterate populations of their rights and to prepare the ground for equitable access to land. men and women to the land;
- The documentation of certain land issues through the conduct of land thematic studies:
 - Issue of securing pastoral areas in Burkina Faso state of play challenges and challenges
 - Study on the determinants of rural land conflicts and their socio-economic impact in the regions of Burkina Faso state of play challenges and challenges
 - Study on the situation of land rights on large developed agricultural irrigation schemes in Burkina Faso state of play issues and challenges
- The accompaniment of the 50 municipalities to the development of local land charters;
- Building the capacity of local actors to resolve conflicts related to land ownership.

4. THE CONSTRAINTS OR INSUFFICIENCIES OF PNGT2-3 PHASE 3

- A disturbed program exit

The PNGT2-3 defined in its exit strategy a series of measures for transferring or integrating program achievements into the national and decentralized systems prepared for this purpose to ensure their sustainability. These measures included (i) the Government's continued commitment to decentralization resulting in greater devolution of human and financial resources to local governments and the abandonment of prior controls to adopt a posteriori on the management of local governments ; (ii) capacity building of local actors including municipalities decentralized technical services and civil society to make them better able to

manage local development; (iii) commitment and ownership of development activities by communities; (iv) quality local investments; (v) strengthening the capacity of local governments to generate their own revenues; (vi) securing land to guarantee investments; (vii) consideration of environmental protection in investments and planning. The implementation of these measures was to be accelerated particularly during the last years of the Program's life in order to create the framework and conditions for a successful transfer of the achievements of the PNGT2-3. Unfortunately the socio-political unrest in Burkina Faso during this critical period (2014) hampered the establishment of these conditions. Indeed most of the attention and efforts of the Transitional Government and the various stakeholders including civil society have turned more towards the search for solutions to the crisis the restoration of institutions and the return to a regular rule of law.

Some measures taken during this period had negative impacts on the preparation of the framework and the creation of the conditions and arrangements for a successful transfer of the achievements of the PNGT2-3. By way of example by Decree No. 2014-004PRES / CAB of 17 November 2014 the municipal and regional councils were dissolved putting a strain on activities as crucial as the implementation of the Municipal Development Plans (LDPs) Rural Land Services and Village Land Conciliation Commissions. The empowerment of the regime elected in November 2015 was disrupted by the terrorist attacks of January 2016 diverting the Government's priorities towards restoring security and restoring peace.

These constraints have had an impact on the level of implementation of phase 3 of the program in terms of unfinished agendas. The main unfinished agendas are as follows:

- Securing land

The program initiated partnerships and action synergies with other actors to build and strengthen the capacity of Rural Land Services in rural communes. It has produced some tangible results issuance of two thousand (2000) Rural Land Possession Certificates (APFR) in fifty (50) PNGT intervention communes elaboration of local land charters signature of protocols with specialized structures studies and research for a better understanding of the rural land issue. However this activity remained halfway because it did not reach the geographical coverage and the depth required to integrate in the communes and progress in a sustainable way.

- Economic growth infrastructure

The PNGT2-1 and 2 programs devoted most of their resources and support to the realization of social infrastructures to meet the urgent needs of the populations. The agenda for setting up economic growth and wealth creation infrastructures (by distinction with social infrastructures) is considered incomplete.

- Strengthening the technical capacities of municipalities

PNGT2-3 has contributed significantly to strengthening the institutional and technical capacities of local authorities by focusing on the training of local elected representatives. However municipalities in particular did not have stable staff with levels of education that allowed them to assimilate master develop and apply the skills they obtained. In addition there was a sharp loss of skills because of the high mobility and changes in the composition of elected officials and staff. As a result the results of

the capacity building program fell short of the expectations of the municipalities as the goal of creating a critical mass of stable skills was not achieved.

- Natural Resources Management - Land and Forests

The PNGT2-3 Program has included in its program of activities the support to the communes to update protected area management plans and the development and implementation of participatory management plans in the target areas. The PNGT 2-3 target values (3 land management plans and 23 participatory management plans respectively) are considered very modest. In addition they concerned only a small number of municipalities. However it appears that the management of natural resources especially lands and forests are part of the competence of municipalities and their development and management are crucial in the fight for the protection of the environment adaptation to climate change vulnerability reduction and building the resilience of populations to natural adversities. In addition the identification and devolution of lands and forests from ministries to municipalities are only in their initial phase. The natural resource management agenda is therefore considered unfinished and deserves to be continued scaled up and strengthened.

5. PROSPECTS FOR THE CONSOLIDATION OF ACQUIREMENTS IN LAND

From the intervention of the program during all its phases and its initiatives in land it appears that the PNGT has contributed to improve the performance of Burkina Faso in land. Thus some achievements have been achieved through the program in the different areas

- The recognition of land tenure;
- Forest and community land rights and rural land use regulations;
- Dispute resolution;
- Review of institutional arrangements and general policies.

This improvement in governance through program support has resulted in abundant production of regulatory provisions on ownership access and use of land. However despite these regulations conflicts of all kinds relating to the access and use of land resources are increasingly numerous in the different localities of the country both in urban and rural areas. In fact the new land and property laws should in their application lead to coherence modernization deconcentration and decentralization of services involved in land and property management. They will also need to improve land and tenure governance by improving the governance of natural resources and reducing barriers to economic growth and safeguarding the environment.

In its vision of land support the effective regular and widespread application of new land laws should promote equitable and secure access to land throughout the national territory and contribute to an increase in productivity and investment in the rural environment. Unfortunately for reasons related to financial technical material and human constraints this application is uneven and limited in space and time. If the State's land services are present in the 45 provinces and the districts in the two communes with special status that are Ouagadougou and Bobo-Dioulasso local structures and local bodies of land management provided by the law 034-2009 / AN exist in less than 1/5 of the communes of Burkina Faso. As a result of this situation in the majority of municipalities where the rural land law is not yet applied or is poorly applied

it is not possible to issue deeds or titles on the land. This situation poses problems in terms of securing agro-sylvo-pastoral investments.

In order to optimize the country's land performance additional efforts in terms of financial resources could be allocated to PNGT2-3 for consolidation of land assets. This support could then concern the three strategic axes that are

- Institutional capacity building of Burkina Faso for better land governance and natural resources
- Modernization of Land Information Management Systems
- Promotion of good practices of land governance and natural resources.