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WHAT POLICY LESSONS CAN WE LEARN FROM STALLED LAND REFORMS? INSIGHTS FROM SENEGAL

Marie GAGNÉ,¹ Cheikh Oumar BA,² Ibrahima KA²

Organizations: 1: Department of Political Science, University of Toronto, Canada
2: Initiative Prospective Agricole et Rurale (IPAR), Sénégal

Presenting author: marie.gagne@utoronto.ca

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Abstract

In the last 20 years, the Senegalese government started a land reform process on three occasions but interrupted it each time. What does this pattern of stalled land reforms reveal about state-society relations in Senegal? What policy lessons can we draw from these inconclusive efforts? In this paper, we identify the constellations of actors and interests that have led the Senegalese government to shelve land reform proposals, with a focus on the latest attempt started in 2012. We argue that the reasons explaining the reluctance of the Senegalese state to bring successive land reforms to completion oscillate between avoidance in the face of a strong civil society and strategic accommodation to the status quo through piecemeal, incremental changes to the current legal system. Our findings are based on a careful analysis of institutional documents, interviews with experts, and participant observations in meetings of the 2012 National Commission on Land Reform.

Key Words: civil society, government, land reform, policy, Senegal



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Extended Abstract

Senegal has had the same land laws for more than fifty years, despite multiple attempts at revising them. Indeed, in the last 20 years, the Senegalese government started a land reform process on three occasions but interrupted it each time. What does this pattern of stalled land reforms reveal about state-society relations in Senegal? What policy lessons can we learn from these inconclusive efforts? In this paper, we identify the constellations of actors and interests that have led the Senegalese government to shelve land reform proposals, with a particular focus on the latest attempt started in 2012. We argue that the reasons explaining the reluctance of the Senegalese state to bring successive land reforms to completion oscillate between avoidance in the face of a strong civil society and strategic accommodation to the status quo. Instead of forthrightly implementing a reform, the Senegalese government has over the years enacted piecemeal and incremental changes to the current legal system to eschew opposition. Our findings are based on a careful analysis of institutional documents, interviews with experts and, for two of the three co-authors, participant observations in meetings of the National Commission on Land Reform (CNRF).

With the enactment of the National Domain Law in 1964, the Senegalese state aimed at dismantling the customary land tenure system in order to give land to the tiller, an endeavour it never had to wherewithal to fully enforce (Faye, 2008). Indeed, elected municipal councils in charge of allocating land rights have been unable or unwilling to overcome rural resistance against the transformation of customary land tenure systems. Despite pressure from international donors and domestic farmer organizations, Presidents Abdou Diouf and Abdoulaye Wade did not implement the land reforms they had initiated due to fears that such changes would destabilize the rural world. In particular, Abdoulaye Wade's proposal to title land in an effort to develop private property was met with stark opposition by the peasant movement (Benkahla et al., 2011).

A growing focus on agribusiness has in the current government's eyes rendered policy changes to ease land acquisitions by investors a quasi-imperative. Civil society organizations and peasant associations favourably welcomed the reform announced by President Macky Sall in 2012, which they viewed as an occasion to amend land laws in such a way as to secure family farmers' land rights and avoid future land grabs. The National Commission on Land Reform (CNRF) created to formulate recommendations embarked on a series of comprehensive consultations with local actors in Dakar and rural regions, an initiative the Senegalese civil society applauded despite a few minor shortcomings.

While the CNRF presented three scenarios for discussion in the consultations, it seemed to already have a preference for the following scheme: matriculation of all lands in the name of the state → emphyteutic lease from the state to municipal councils → creation of subleases for individual users, both locals and foreigners. This view was reflected in the first version of the policy document that the CNRF released. Concerned that the proposed leases might compromise customary land rights instead of protecting them, Senegalese civil society organizations strongly deplored the emphasis on the recognition of "indefeasible rights to the exclusion of all other



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systems of land securement.”¹ It seems that these complaints were partially heard. While affirming the need to allow private investors to access land, the final land policy document issued in October 2016 states that “the fundamental orientation of the law on the national domain in favor of local land administration is maintained.” The text also calls for the creation of “a graduation of land rights of a different legal nature” (administrative certificate, certificate of possession, lease or sublease, land title, etc.), “with gateways to move from one type of title to another.”

Going against the conclusions of a consensual process, President Macky Sall has firmly excluded the possibility of registering land with municipal councils (even though the final proposal did not evoke this option) and has refused to translate the policy document into law. While appreciable, the influence of civil society has had over the content of the land reform remained confined to the technocratic aspect of policy formulation: NGOs have been able to prevent revisions to the land tenure system that would confer disproportionate rights to the agribusiness sector, but have not been influential enough to force the government to implement changes that would effectively formalize customary rights or enlarge the power of municipal governments in land management. Their limited success is partly related to the fact that the Senegalese government is able to carry through its ambitions in the agricultural sector in the current state of affairs.

In his refusal to challenge the central state’s authority over land, President Macky Sall has preferred to maintain the status quo – indicating that the balance of powers has led to a stalemate between competing groups of actors with diverging visions of how land should be administered in Senegal. In this presentation, we will explain why Senegalese land reform history, indeed, repeats itself (Hesseling, 2009) and discuss the lessons of the stalled land reform in anticipation of future policy rounds.

References

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¹ Déclaration du Forum national des organisations paysannes et de la société civile (<http://roppa-afric.org/IMG/pdf/cncr.pdf>, accessed on 12/01/2016).